

**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, AUGUST 21, 2018**

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, August 21, 2018 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.

If you are discussing 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 from the public regarding the City of Weslaco ad valorem property tax proposed rate of \$0.6817/\$100.00 valuation, pursuant to Texas Tax Code Section 26.05(d). Attachment

- B. To solicit input from the public regarding the City of Weslaco proposed budget for Fiscal Year 2018-2019, pursuant to Local Government Code 102.006 and 102.007. 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 Regular Meeting on August 7, 2018;
- 2) Record of workshop on August 8, 2018;
- 3) Record of workshop on August 9, 2018;
- 4) Record of workshop on August 13, 2018
- 5) Record of workshop on August 15, 2018; and
- 6) Record of workshop on August 16, 2018.

(Staffed by City Secretary's Office.) Attachment

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

- 1) Ordinance 2018-21, amending Ordinance 2013-21, Section 26-34 Drainage with respect to drainage requirements on new subdivisions. (First reading held August 7, 2018; staffed by Planning and Code Enforcement.) Attachment
- 2) Ordinance 2018-22 rezoning 1302 W. Sugarcane Dr. also being West Tract SE 6.43 AC – E 13.49 AC Ft 141, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to B-1 Neighborhood Business. (First reading held August 7, 2018; staffed by Planning and Code Enforcement Department.) Attachment
- 3) Ordinance 2018-23 rezoning 720 International Blvd., also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, Tract 1030, TDB-Brito Apartments, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to R-2 Duplex and Apartments District. (First reading held August 7, 2018; staffed by Planning and Code Enforcement Department.) Attachment

C. Approval of the renewal of the Election Services Contract with the Hidalgo County Elections Department to conduct the Joint City of Weslaco and Weslaco Independent School District General Election of November 6, 2018 pursuant to Texas Election

Code Chapter 271, and authorize the Mayor to execute any related documents including this contract and any interlocal agreement with the Weslaco Independent School District related to this election. (Staffed by Office of the City Secretary.) Attachment

- D. Approval of the renewal of the Lease Agreement with the Weslaco Youth Football League for the use of Isaac Rodriguez multi-purpose fields and Harlon Block Sports Complex practice area, for a term of four months (September 1, 2018-December 31, 2018) and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.) Attachment
- E. Approval of the renewal of the lease agreement with Mid Valley Youth Soccer League for use of Pablo G. Pena City Park soccer fields and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.) Attachment
- F. Approval of Weslaco Mid Valley Airport Ground Lease Agreements with Tenant Ray Walker for Hangers W-4 and W-10 and authorize the Mayor to execute any related documents. (Staffed by Airport.) Attachment
- G. Approval of renewal of an agreement with Drug Enforcement Administration of State and Local HIDTA Task Force cooperation for Fiscal Year 2018-2019 and authorize Police Chief Joel Rivera to execute any related documents. (Staffed by Weslaco Police Department.) Attachment
- H. Approval of the renewal of the agreements with Muniservices for local hotel occupancy tax program and sales tax audit and administration services and authorize the Mayor to execute any related documents. (Staffed by Finance Department.) Attachment

V. APPOINTMENTS

- A. Discussion and consideration to approve Resolutions 2018-47, 2018-48, 2018-49, 2018-50, and 2018-51 appointing members to the Citizen's Drainage Committee and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.) Attachment

VI. NEW BUSINESS

- A. Discussion and consideration after Public Hearing to schedule a record vote September 4 and September 18, 2018 regarding the City of Weslaco proposed budget for Fiscal Year 2018--2019. Possible action. (Staffed by Finance Department.)
- B. Discussion and consideration to approve Ordinance 2018-24 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. First reading of Ordinance 2018-24. Possible action. (Staffed by Finance Department.) Attachment
- C. Discussion and consideration to approve Ordinance 2018-25 authorizing the assessment of a Municipal Court Building Security Fee in the amount of \$3.00 against all Defendants convicted of a misdemeanor offense by the Municipal Court. First Reading of Ordinance 2018-25. Possible action. (Staffed by Municipal Court.) Attachment
- D. Discussion and consideration to approve the purchase of computers using BuyBoard contract as budgeted in an amount not to exceed \$35,000.00 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Information Technology.) Attachment
- E. Discussion and consideration to select location for the October 2018 Clean Sweep Event. Possible action. (Staffed by Planning and Code Enforcement.) Attachment
- F. Discussion and consideration to approve a reimbursement agreement with Robert A. McAllen to widen drainage canal adjacent to Westgate Estates No. 2 on City property/Right-of-Way and authorize Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement) Attachment

VII. REPORTS

- A. Report by Finance Department - Quarterly Investment Report. Possible action to accept and file.
- B. Report by Finance Department - Quarterly Financial Report. Possible action to accept and file.
- C. Report by Siemens Technologies on Performance Contracting Agreement.
- D. Report by Weslaco Area Chamber of Commerce.

- E. Report by Economic Development Corporation of Weslaco.
- F. Report by Planning and Code Enforcement.
- G. Report by Inframark.
- H. Report by Public Works.

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 §551.074 of the Texas Government Code.
- B. Personnel - Discussion regarding the Arbitration of Appeal from Gilbert Luna as authorized by §551.074 of the Texas Government Code.
- C. Contract Negotiations – Discussion with the City Manager and City Attorney 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. Legal Consultation - Seek City Attorney opinion relating to the mediation with CDM as authorized by §551.071 of the Texas Government Code.

- E. Legal Consultation - Seek City Attorney opinion relating to the breach of contract by Accela as authorized by §551.071 of the Texas Government Code.
- F. Real Property – Consultation with City Attorney on the purchase of real property legally described as Chelsea Park W6.83AC GR 5.22AC Net on Border Avenue as authorized by §551.072 of the Texas Local Government Code.
- G. Real Property – Consultation with City Attorney on the purchase of real property legally described as West Tract W3.67AC-S10AC-N20AC FT 685 at Dawson and Oregon Streets as authorized by §551.072 of the Texas Local Government Code.
- H. Economic Development – Consultation with City Attorney regarding Economic Development incentive programs related to Project Chicken Hatch as authorized by §551.087 of the Texas Government Code.
- I. Economic Development – Consultation with City Attorney regarding Economic Development incentive programs related to Project Bob as authorized by §551.087 of the Texas Government Code.
- J. Economic Development – Consultation with City Attorney regarding Economic Development incentive programs related to Project Catherine as authorized by §551.087 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 17th day of August, 2018 at 5:50 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/ Elizabeth M. Walker, 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:

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Gerardo "Jerry" Tafolla, Mayor Pro-Tem, District 4
Leo Muñoz, Commissioner, District 1
Greg Kerr, Commissioner, District 2
Jose "J.P." Rodriguez, Commissioner, District 3
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: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1909
From:		
Subject: To solicit input from the public regarding the City of Weslaco ad valorem property tax proposed rate of \$0.6817/\$100.00 valuation, pursuant to Texas Tax Code Section 26.05(d).		
Background: At the August 7th meeting, the effective and rollback tax rates were presented. Then the tax rate was proposed at one and a half cents greater than our current rate. The state requires that if our proposed rate exceeds the lower of the effective or rollback rate, we must conduct two public hearings. The increase is for the purpose of funding drainage improvements.		
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 Public Hearing published in Advance News Journal on August 15.		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Elizabeth Walker	Created/Initiated	
Mary Barrera	Approved	
Mike Perez	Final Approval	
City Manager Comments: Approve solicitation of public comments.		
Staff Recommendation: Convene public hearing and take comments.		
Attachments, if any: 2018-08-09 CWL Publication Notice		
Responsibilities upon Approval:		

NOTICE OF 2018 TAX YEAR PROPOSED PROPERTY TAX RATE FOR CITY OF WESLACO

A tax rate of \$0.6817 per \$100 valuation has been proposed for adoption by the governing body of City of Weslaco. This rate exceeds the lower of the effective or rollback tax rate, and state law requires that two public hearings be held by the governing body before adopting the proposed tax rate.

The governing body of City of Weslaco proposes to use revenue attributable to the tax rate increase for the purpose of funding drainage improvements..

PROPOSED TAX RATE	\$0.6817 per \$100
PRECEDING YEAR'S TAX RATE	\$0.6667 per \$100
EFFECTIVE TAX RATE	\$0.6731 per \$100
ROLLBACK TAX RATE	\$0.7307 per \$100

The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for City of Weslaco from the same properties in both the 2017 tax year and the 2018 tax year.

The rollback tax rate is the highest tax rate that City of Weslaco may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the rollback rate.

YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS
FOLLOWS:

$$\text{property tax amount} = (\text{rate}) \times (\text{taxable value of your property}) / 100$$

For assistance or detailed information about tax calculations, please contact:

Pablo (Paul) Villarreal Jr.
City of Weslaco Tax Assessor-Collector
2804 S. Business Hwy 281, Edinburg TX 78539
956-318-2157
propertytax@hidalgocountytax.org
<http://www.hidalgocountytax.org>

You are urged to attend and express your views at the following public hearings on the proposed tax rate:

First Hearing: August 21, 2018 at 5:30PM at Weslaco City Commission Legislative Chambers, 255 S. Kansas Ave., Weslaco, TX 78596.

Second Hearing: August 28, 2018 at 5:30PM at Weslaco City Commission Legislative Chambers, 255 S. Kansas Ave., Weslaco, TX 78596.



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1910	
From:			
Subject: To solicit input from the public regarding the City of Weslaco proposed budget for Fiscal Year 2018-2019, pursuant to Local Government Code 102.006 and 102.007.			
Background: Section 102.006 of the Local Government Code states that a governing body shall hold a public hearing on the proposed budget. Section 102.007 states that at the conclusion of the hearing the governing body shall "take action" on the budget.			
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:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Elizabeth Walker		Created/Initiated	
Mary Barrera		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve solicitation of public comments.			
Staff Recommendation: Convene public hearing and take comments.			
Attachments, if any: PH Budget 18-19 updated			
Responsibilities upon Approval:			

City of Weslaco

"The City on the Grow"



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

Mike R. Perez, City Manager

NOTICE OF PUBLIC HEARING

The City of Weslaco will hold a Public Hearing on Tuesday, August 21st, at 5:30 p.m. for the purpose of receiving public comments on the Fiscal Year 2018-2019 Proposed Budget. The hearing will be held at the Legislative Chambers of City Hall, 255 S. Kansas Avenue, Weslaco, Texas. This budget will raise more total property taxes than last year's budget by \$427,940, or 1.5%, and of that amount, \$136,321 is tax revenue to be raised from new property added to the tax roll this year. The proposed budget is available for inspection at the office of the City Secretary. Interested citizens are invited to attend and may make oral or written comments.

Persons unable to attend this meeting may submit their views and proposals to Mr. Mike R. Perez, City Manager, at City Hall. Persons with disabilities that wish to attend this meeting should contact City Hall at (956)968-3181 to arrange for assistance. Individuals who require auxiliary aids or service for this meeting should contact City Hall at least two days before the meeting so that appropriate arrangements can be made.



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1880	
From:			
Subject: Approval of the following: 1) Minutes of the Regular Meeting on August 7, 2018; 2) Record of workshop on August 8, 2018; 3) Record of workshop on August 9, 2018; 4) Record of workshop on August 13, 2018 5) Record of workshop on August 15, 2018; and 6) Record of workshop on August 16, 2018. (Staffed by City Secretary's Office.) Attachment.			
Background: Record of commission action from the regular meeting of August 7, 2018 and budget workshops on August 8, 9, 13, 15 and 2018.			
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):			
Elizabeth Walker		Created/Initiated	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Approve.			
Attachments, if any: 18-08-07 minutes, 18-08-08 record, 18-08-09 record, 18-08-13 record, 18-08-15 record, 18-08-16 record			
Responsibilities upon Approval: Execute and retain.			



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, AUGUST 7, 2018**

On Tuesday, August 07, 2018, at 5:32 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:

Mayor	David Suarez
Mayor Pro-Tem	Gerardo “Jerry” Tafolla
Commissioner	Leo Muñoz
Commissioner	Greg Kerr
Commissioner	Letty Lopez
Commissioner	Josh Pedraza
City Manager	Mike R. Perez
City Secretary	Elizabeth Walker
City Attorney	Juan E. Gonzalez

Also present: Mary Barrera, Finance Director; Veronica Ramirez, Human Resources Director; David Arce, Parks and Recreation Director; Leo Gonzalez, Information Technology Director; Mardoqueo Hinojosa, Planning and Code Enforcement Director and City Engineer; Tony Lopez, Fire Chief; Joel Rivera, Police Chief; Andrew Munoz, Airport Director; Arnoldo Becho, Library Director; Pete Garcia, Public Works Director; and other staff members and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

The Mayor called the meeting to order and certified the public notice of the meeting as properly posted Friday, August 3, 2018.

B. Invocation.

Pastor Elizabeth Wright, First United Methodist Church, led the invocation.

C. Pledge of Allegiance.

The Mayor led the Pledge of Allegiance and Texas Flag.

D. Mayoral Recognition.

There were none issued.

E. Roll Call.

Elizabeth Walker, City Secretary, called the roll noting the absence of Commissioner Rodriguez and a quorum present.

II. PUBLIC COMMENTS

Randy Hall, Rosie Coronado, and Sandra Reyna voiced concerns on drainage; Jeremy Schaefer, FEMA, announced the new hours of operation for the disaster recovery center; Randy Summers voiced his support for staff and Israel Coronado announced a recall petition.

III. PUBLIC HEARING

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to open the public hearing at 6:06 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

A. To solicit input on behalf of El Compadre Restaurant y Cantina for a Conditional Use Permit to obtain a Mixed Beverage Permit, Food and Beverage Certificate and Beverage Cartage Permit at 702 S.Texas Blvd., Original Townsite of Weslaco, Weslaco, Hidalgo County, Texas. (Staffed by Planning and Code Enforcement Department.)

None received.

B. To solicit input on behalf of Torres Investments LLC to rezone 1302 W. Sugarcane Dr. also being West Tract SE 6.43 AC – E 13.49 AC Ft 141, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to B-1 Neighborhood Business. (Staffed by Planning and Code Enforcement Department.)

None received.

C. To solicit input on behalf of AEC Engineering C/O Carlos Garza, P.E. to rezone 720 International Blvd. also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, tract 1030, TDB-Brito Apartments, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to R-2 Duplex and Apartments District. (Staffed by Planning and Code Enforcement Department.)

None received.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to close the public hearing at 6:07 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

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 Regular Meeting on July 17, 2018;
- 2) Record of Workshop on July 17, 2018;
- 3) Minutes of the Special Meeting on July 24, 2018; and
- 4) Record of Workshop on July 24, 2018. (Staffed by City Secretary's Office.) .

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

- 1) Ordinance 2018-20 updating the Cemetery Rules and authorize the Mayor to execute any related documents. (First Reading of held July 17, 2018; Staffed by Parks and Recreation.)

C. Approval of 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 G Pablo Pena Park (Fields and/or Tennis Courts), 300 North Airport Drive, from August 27,2018 – August 9, 2019 and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation.)

D. Approval to terminate a Mid Valley Airport Ground Lease Agreement with Tenant Jenalee Jan Gerjets for Hangar E-25 and to approve a Mid Valley Airport Ground Lease Agreement with Tenant The Onion House L.L.C. for Hangar E-25 and authorize the Mayor to execute any related documents. (Staffed by Airport.)

E. Approval of 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 authorize the Mayor to execute any related documents. (Staffed by Airport.)

F. Approval for the submission of the Notice of Intent (NOI), under DR-4332, to the Texas Department of Emergency Management (TDEM) for the Application and Development of a Hazard Mitigation Plan and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.)

G. Approval for the submission of the Notice of Intent (NOI), under DR-4332, to the Texas Department of Emergency Management (TDEM) for Phase II: Acquisition and Construction of a Regional Detention Facility (Las Brisas Subdivision) and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.)

H. Approval for the submission of the Notice of Intent (NOI), under DR-4332, to the Texas Department of Emergency Management (TDEM) for Phase II: South Detention Pond and Related Drainage Improvements (Villa Verde Subdivision) and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.)

I. Approval for the submission of the Notice of Intent (NOI), under DR-4332, to the Texas Department of Emergency Management (TDEM) for the Acquisition of Right-of-Way and Real Property for the construction of Regional Detention Facility's and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.)

J. Approval of revisions to the City of Weslaco Personnel Policies and Procedures and authorizing those sections regulated by executive departments and agencies of the state and

federal government to be updated as necessary. (There was no action on July 17, 2018; Staffed by Human Resources.)

Mike Perez, City Manager, requested item J be withheld from consent agenda.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve consent agenda items A through I and withhold item J as presented. The motion carried unanimously; Mayor Suarez was present and voting. The motion carried unanimously; Mayor Suarez was present and voting.

J. Approval of revisions to the City of Weslaco Personnel Policies and Procedures and authorizing those sections regulated by executive departments and agencies of the state and federal government to be updated as necessary. (There was no action on July 17, 2018; Staffed by Human Resources.)

The City Manager noted the policy incorrectly changed a portion of the sick leave that would have an adverse effect on 29 long-time employees. The section has been corrected, clarifying that employees hired after October 1, 2008 who leave in good standing are eligible for pay of accumulated sick and/or vacation leave not to exceed one hundred twenty (120) hours. In response to Commissioner Muñoz, those employees hired prior to October 1, 2008 will be grandfathered with the policy in effect when hired.

Commissioner Kerr, seconded by Commissioner Lopez, moved to approve revisions to the City of Weslaco Personnel Policies and Procedures and authorizing those sections regulated by executive departments and agencies of the state and federal government to be updated as necessary with noted corrections as presented. The motion carried unanimously; Mayor Suarez was present and voting.

For the record the ordinance is as follows:

ORDINANCE NO. 2018-20

AN ORDINANCE SETTING FORTH POLICIES, PROCEDURES AND REGULATIONS CONCERNING THE WESLACO CEMETERY AND SETTING FORTH AN APPEALS PROCESS FOR DECISIONS MADE ON ITS USE.

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

SECTION I: No new burials are allowed on the Old Section of the Weslaco City Cemetery unless proof of ownership of burial plots is provided. Proof of ownership includes, but is not limited, to:

1. Written proof of ownership or deed;
2. Receipts evidencing payment for plot;
3. Duly prepared Affidavit of Fact Concerning Identity of Heirs prepared in accordance with Section 203.002 of the Texas Estates Code;
4. Circumstantial evidence, including but not limited to, affidavits of fact, photographs, preexisting markers, maps, plats or diagrams;
5. Self-proving Last Will and Testament, holistic will or any other documents prepared according to the Texas Estates Code evidencing ownership or transfer of interest in a particular plot;

6. Any other proof of ownership acceptable to the City.

SECTION II: The decision on acceptance of proof of ownership will be made by the City Manager in consultation with staff and the City Attorney. If the individual is not satisfied with this decision it may be appealed to the City Commission.

SECTION III: The City Commission shall appoint a subcommittee of three Commissioners to consider the appeal of the decision of the City Manager. The subcommittee may include any member of the City Commission. If any member of the subcommittee is unavailable, any other available member of the City commission may hear the appeal. This subcommittee must comply with all statutory notice and posting requirements as a regular City commission meeting.

SECTION IV: That this Ordinance shall become effective upon its passage.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 17th day of July 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 7th of August 2018.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Elizabeth M. Walker, CITY SECRETARY

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

V. APPOINTMENTS

A. Discussion and consideration to approve Resolution 2018-44 establishing the Citizens' Drainage Committee and approving Resolutions 2018-45, 2018-46, 2018-47, 2018-48, 2018-49, 2018-50, and 2018-51 appointing its inaugural members and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve Resolution 2018-44 establishing the Citizens' Drainage Committee. The motion carried unanimously; Mayor Suarez was present and voting.

Commissioner Muñoz suggested he would like each district represented and nominated Randy Hall. Commissioner Lopez nominated Sandra Reyna.

Commissioner Kerr, seconded by Commissioner Pedraza, moved to approve Resolutions 2018-45 and 2018-46 appointing Randy Hall and Sandra Reyna to the Citizens' Drainage Committee. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the following are the resolutions:

RESOLUTION NO. 2018-44

A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE WESLACO DRAINAGE CITIZENS' TASK FORCE

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT a Weslaco Drainage Citizens' Task Force is hereby created.

PASSED AND APPROVED on this 7th day of August, 2018.

RESOLUTION NO. 2018-45

A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE WESLACO DRAINAGE CITIZENS' TASK FORCE

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Randy Hall is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on 7th day of August 2019.

PASSED AND APPROVED on this 7th day of August, 2018.

RESOLUTION NO. 2018-46

A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE WESLACO DRAINAGE CITIZENS' TASK FORCE

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT Sandra Reyna is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on 7th day of August, 2019.

PASSED AND APPROVED on this 7th day of August, 2018.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Elizabeth M. Walker, CITY SECRETARY

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

VI. NEW BUSINESS

A. Discussion and consideration to approve Resolution 2018-52 authorizing publication of Notice of Intention to Issue Certificates of Obligation and authorize the Mayor to executed any related documents. Possible action. (Staffed by City Manager's Office.)

The City Manager stated this was the first step to secure funding for drainage improvements, which may be repaid through a utility fee and/or ad valorem taxes. Mayor Suarez prefers not to use ad valorem; however, the City Manager stated an obligation against ad valorem offers a better interest rate. He recommends applying these funds to create Regional Detention Facilities, which affect the city as a whole by allowing water to gather and hold, across thirteen acres at Harlon Block Park, six acres behind John Knox Village, and limited acreage north of Leisure World.

In response to Mayor Suarez, these funds could be available by October 18; any projects proposed through this funding will be reviewed by the citizens' committee and designed by the engineer to be hired.

Commissioner Muñoz, seconded by Commissioner Lopez, moved to approve Resolution 2018-52 authorizing publication of Notice of Intention to Issue Certificates of Obligation. The motion carried unanimously; Mayor Suarez was present and voting.

The following is the resolution:

RESOLUTION 2018-52

RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

WHEREAS, the City Commission (the "Commission") of the City of Weslaco, Texas (the "City"), finds that financing the design, planning, acquisition, construction, equipping, expansion, repair, renovation, and/or rehabilitation of the public property, as well as the payment of fees for professional services related thereto, described in Exhibit A hereto (the "Project") would be beneficial to the inhabitants of the City, and such Project is needed to perform essential governmental functions; and the Commission has determined that certificates of obligation (the "Certificates of Obligation") should be issued pursuant to the provisions of the Certificate of Obligation Act of 1971, Section 271.041 *et seq.*, Texas Local Government Code (the "Act"), for such purposes;

WHEREAS, prior to the issuance of the Certificates of Obligation, the City is required to publish notice of its intention to issue the Certificates of Obligation in a newspaper of general circulation in the City, the notice stating (i) the time and place the Commission tentatively proposes to pass the ordinance authorizing the issuance of the Certificates of Obligation, (ii) the maximum amount of Certificates of Obligation proposed to be issued, (iii) the purposes for which the Certificates of Obligation are to be issued, and (iv) the manner in which the Commission proposes to pay the Certificates of Obligation;

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

Section 1. Attached hereto and marked Exhibit A the "Notice of Intention to Issue Certificates of Obligation" (the "Notice"), the form and substance of which are hereby adopted and approved.

Section 2. The Mayor or the City Secretary shall cause the Notice to be published in a newspaper, as defined in Section 2051.044, Texas Government Code, of general circulation in the City for two consecutive weeks, the date of first publication to be at least 30 days prior to the date tentatively set for the ordinance authorizing the issuance of the Certificates of Obligation.

Section 3. 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

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE is hereby given that it is the intention of the City Commission (the "Commission") of the City of Weslaco, Texas (the "City") to adopt an Ordinance providing for the issuance of interest bearing obligations of the City presently contemplated to be designated and known as the "CITY OF WESLACO, TEXAS CERTIFICATES OF OBLIGATION, SERIES 2018" (the "Certificates of Obligation") for the purpose of providing for the payment of contractual obligations to be incurred in connection with the design, planning, acquisition, construction, equipping, expansion, repair, renovation, and/or rehabilitation of certain City-owned public property, including: (1) drainage projects and projects related thereto or necessary therefor, and (2) payment of contractual obligations for professional services in connection therewith (to wit: architectural, engineering, financial advisory, and legal). The Commission tentatively proposes to authorize the issuance of the Certificates of Obligation at its regular meeting place at City Hall, Weslaco, Texas, at a meeting of the Commission to be commenced at 5:30 p.m. on September 25, 2018, in an amount expected not to exceed \$4,500,000.00. The Commission proposes to provide for payment of the Certificates of Obligation from a pledge of an annual ad valorem tax, as well as a limited pledge of certain of the surplus revenues of the City's waterworks and sewer system.

/s/ David Suarez
Mayor, City of Weslaco, Texas

ATTEST:
/s/Elizabeth M. Walker, CITY SECRETARY

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

B. Discussion and consideration to approve Resolution 2018-53 declaring intention to reimburse certain expenditures related to the flood recovery or drainage improvements and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

The City Manager recommended approval; in response to Commissioner Kerr, property purchased for the Regional Detention Facilities could be reimbursed.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve Resolution 2018-53 declaring intention to reimburse certain expenditures related to the flood recovery or drainage improvements. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the following is the resolution:

RESOLUTION 2018-53

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 \$4,500,000.00 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: (1) drainage projects and any projects related thereto or necessary therefor, and (2) payment of contractual obligations for professional services in connection therewith (to wit: consulting, engineering, financial advisory, and legal).

/s/ David Suarez
Mayor, City of Weslaco, Texas

ATTEST:

/s/Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:

/s/Juan E. Gonzalez, CITY ATTORNEY

C. Discussion and consideration to accept the calculation of effective and rollback tax rates for the 2018 tax year by Hidalgo County Tax Assessor-Collector Pablo "Paul" Villarreal. Possible action. (Staffed by Finance.)

Mary Barrera, Finance Director, presenting in the absence of the Tax Assessor, stated on July 26 the effective and rollback tax rate were certified. The effective tax rate of \$0.6731 will generate the same revenues as last year; \$0.7307 is the rollback tax rate. The current tax rate is \$0.6667 which generates \$11,241,249. Staff recommends acceptance of the calculated rates.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to accept the calculation of effective and rollback tax rates for the 2018 tax year as presented. The motion carried unanimously; Mayor Suarez was present and voting.

D. Discussion and consideration to approve Resolution 2018-54 proposing an ad valorem tax rate and setting dates on which the Commission will hold public hearings, and a date to adopt the 2018-2019 ad valorem tax rate. Roll Call vote. Possible action. (Staffed by Finance.)

Mary Barrera stated based on budget preparations, revenue projections, and drainage issues, the recommendation is to propose \$0.6817 as the ad valorem tax rate, which increases the current rate by 1.5-cents. Commissioner Pedraza noted this is the amount set as not to exceed; the Commission preserves flexibility and may lower it within thirty-days. The public hearings are scheduled August 21 and August 28 with adoption of the tax rate on September 4 by roll call vote.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve Resolution 2018-54 proposing an ad valorem tax rate and setting dates on which the Commission will hold public hearings, and a date to adopt the 2018-2019 ad valorem tax rate. By roll call vote, the motion carried with the Mayor opposed (5-1).

E. Discussion and consideration to approve Ordinance 2018-21, amending Ordinance 2013-22, Section 26-34 Drainage with respect to drainage requirements on new subdivisions. First Reading of Ordinance 2018-21. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa, City Engineer/Director of Planning and Code Enforcement, stated amendments increase the detention requirement to a proposed 50-year storm and gives the City Commission final authority on subdivision drainage facilities. In response to Mayor Pro-Tem Tafolla, McAllen already has a 50-year, a couple of other cities have a 25-year, and most a ten-year detention requirement.

Randy Hall voiced his concern that increased detention reduces the available size of a development and loss of revenue. The City Manager stated staff could calculate the potential loss of lots and determine if it would be cost prohibitive.

Commissioner Pedraza, seconded by Commissioner Lopez, moved to approve Ordinance 2018-21, amending Ordinance 2013-22, Section 26-34 Drainage with respect to drainage requirements on new subdivisions. The motion carried unanimously; Mayor Suarez was present and voting.

F. Discussion and consideration after public hearing on behalf of El Compadre Restaurant y Cantina to approve a Conditional Use Permit to obtain a Mixed Beverage Permit, Food and Beverage Certificate and Beverage Cartage Permit at 702 S. Texas Blvd., Original Townsite of Weslaco, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa stated twenty-four property owners were notified with no objections received. The Planning and Zoning Commission and staff recommend approval as previous use was a restaurant.

Commissioner Kerr, seconded by Commissioner Lopez, moved to approve a Conditional Use Permit to obtain a Mixed Beverage Permit, Food and Beverage Certificate, Beverage Cartage and late hours Permit at 702 S. Texas Blvd., Original Townsite of Weslaco, Weslaco, Hidalgo County, Texas. The motion carried unanimously; Mayor Suarez was present and voting.

G. Discussion and consideration after public hearing on behalf of Torres Investments LLC. to approve Ordinance 2018-22 rezoning 1302 W. Sugarcane Dr. also being West Tract SE 6.43 AC – E 13.49 AC Ft 141, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to B-1 Neighborhood Business. First reading of Ordinance 2018-22. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa stated ten property owners were notified with no objections received. The property was annexed in 2014 as residential use and the Future Land Use recommends apartment use. The Planning and Zoning Commission recommend approval because of its existing operation as a restaurant; staff recommends denial based on the 2040 Land Use Map.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve Ordinance 2018-22 rezoning 1302 W. Sugarcane Dr. also being West Tract SE 6.43 AC – E 13.49 AC Ft 141, Weslaco,

Hidalgo County, Texas from R-1 One Family Dwelling to B-1 Neighborhood Business. The motion carried unanimously; Mayor Suarez was present and voting.

H. Discussion and consideration after public hearing on behalf of AEC Engineering C/O Carlos Garza, P.E. to approve Ordinance 2018-23 rezoning 720 International Blvd., also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, tract 1030, TDB-Brito Apartments, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to R-2 Duplex and Apartments District. First reading of Ordinance 2018-23. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa stated seventeen property owners were notified; one inquiry was received at the Planning and Zoning Commission meeting on proposed use. The Planning and Zoning Commission and staff recommend approval. In response to Commissioner Pedraza, the fifty-year detention requirement will not be in effect yet for this property.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve Ordinance 2018-23 rezoning 720 International Blvd., also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, tract 1030, TDB-Brito Apartments from R-1 One Family Dwelling to R-2 Duplex and Apartments District. The motion carried unanimously; Mayor Suarez was present and voting.

I. Discussion and consideration to approve the Final Plat for Ranchitos El Arroyo, 46.46 acres land out of Farm Tract 823, 824, 825 and 827, West Tract Subdivision, Hidalgo County, Texas located on the Southeast Corner of Mile 5 North Road & Mile 4 West Road. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa stated this is a twenty-one lot proposed subdivision, located outside City limits but serviced by City water and sewer. He noted it is located in flood zones B and AH and there is a requirement to lift within AH. In response to Mayor Pro Tem Tafolla, any voluntary annexation would be a lollipop to consider in a future meeting. The Planning and Zoning Commission and staff recommend approval.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve Final Plat for Ranchitos El Arroyo, 46.46 acres land out of Farm Tract 823, 824, 825 and 827, West Tract Subdivision, Hidalgo County, Texas located on the Southeast Corner of Mile 5 North Road & Mile 4 West Road. The motion carried unanimously; Mayor Suarez was present and voting.

J. Discussion and consideration to approve the Final Plat for Plaza Diez Quince, being a 9.24 acres land out of Plaza Diez Quince Subdivision, Weslaco, Hidalgo County, Texas located approximately 400 feet east of FM 1015. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa stated this is a thirty-two lot subdivision, which the developer re-platted as a result of redrawn lot lines. It has existing utilities and alleys as well as existing 50-foot of right-of-way; staff requests 75-feet of right-of-way from centerline and developer requesting variance to maintain at 50-feet. The Planning and Zoning Commission recommend approval with variance contingent on letters from Irrigation District No. 1 and Hidalgo and Cameron Drainage District No. 9 accepting the 50-feet dedicated right-of-way; such letters were received.

The City Manager recommended compliance of the ordinance reserving 75-feet of right-of-way, preserving access to the ditch, and suggested the City agree to pay for any damages to the paved alley. Ruben Gutierrez voiced concern of damage to pavement from heavy equipment.

Commissioner Kerr, seconded by Commissioner Lopez, moved to approve the Final Plat for Plaza Diez Quince, being a 9.24 acres land out of Plaza Diez Quince Subdivision without requested variance and authorizing the plat to reflect dedication of a 75-foot right-of-way and a plat note that any damages to alley the City will repair. The motion carried unanimously; Mayor Suarez was present and voting.

K. Discussion and consideration to approve the Final Plat for Las Villas Apartments Subdivision, being a 2.66 acre land out Farm Tract 627, Block 178, West Tract Subdivision, Weslaco, Hidalgo County, Texas located approximately 840 feet West of Mile 6½ West. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa stated this is a two-lot subdivision located on Business Highway 83 north of Milano Road; it is serviced by city sewer and North Alamo Water Supply water. Mr. Hinojosa noted that it is in flood zone X and under stormwater detention ordinance. The Planning and Zoning Commission and staff recommend approval.

Mayor Pro Tem Tafolla, seconded by Commissioner Pedraza, moved to approve Final Plat for Las Villas Apartments Subdivision, being a 2.66 acre land out Farm Tract 627, Block 178, West Tract Subdivision as presented. The motion carried unanimously; Mayor Suarez was present and voting.

L. Discussion and consideration to approve a six-month extension of the Final Plat for The Jungle Subdivision, a 10.0' acre tract out of Farm Tract 658 West & Adams Tract Subdivision located on the North side of Mile 6 N. Road, approximately 601.92' West of Westgate Drive. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa stated this is a three lot subdivision that is close to expiring and expected to be recorded within the next couple of months. The Planning and Zoning Commission and staff recommend approval.

Commissioner Pedraza, seconded by Commissioner Lopez, moved to approve a six-month extension of the Final Plat for The Jungle Subdivision as presented. The motion carried unanimously; Mayor Suarez was present and voting.

M. Discussion and consideration to approve a six-month extension of the Final Plat for Midway Mobile Subdivision, a 25.263 acre tract of land being all of Farm Tract 643, West and Adams Tracts Subdivision, Hidalgo County, Texas. Located on Midway Road and Mile 6½ North Road. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa stated the developer requests more time for completion. The Planning and Zoning Commission and staff recommend approval.

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

N. Discussion and consideration to select a committee to evaluate Request For Qualifications No. 2017-18-21 Civil Engineering Services Stormwater Improvements Plan. Possible action. (Staffed by Planning and Code Enforcement.)

Mardoqueo Hinojosa recommends the committee be comprised of elected officials and staff to rank and evaluate. Commissioners Muñoz and Kerr recommended the entire Commission; Mayor Pro Tem Tafolla recommended staff members Efrain Tafolla and Rolando Garza, City Manager recommended Mardoqueo Hinojosa and Zenaida Reyna.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve Mayor and Commissioners, City Manager, Mardoqueo Hinojosa, Efrain Tafolla, Rolando Garza and Zenaida Reyna. The motion carried unanimously; Mayor Suarez was present and voting.

O. Discussion and consideration on approval of payment to Republic Services in the amount of \$286,503.97 for the removal of debris due to flooding and authorize Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mardoqueo Hinojosa recommended approval stating this is the second invoice with 32,000 tons of debris collected; \$51,593.72 had been authorized for the first invoice. There was consensus to remove roll-off containers by the end of next week; remaining debris may be placed in front of an individual house to be picked up.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve payment to Republic Services in the amount of \$286,503.97 for the removal of debris due to flooding as presented. The motion carried unanimously; Mayor Suarez was present and voting.

P. Discussion and consideration on request from Hidalgo County Precinct 1 to approve a revised Interlocal Cooperation Agreement for participation with Phase I-Preliminary Engineering for improvements to Mile 10 roadway from Mile 6 East to FM 1015 and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

The City Manager recommended approval as previous Commission action authorized cost participation.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve a revised Interlocal Cooperation Agreement for participation with Phase I-Preliminary Engineering for improvements to Mile 10 roadway from Mile 6 East to FM 1015. The motion carried unanimously; Mayor Suarez was present and voting.

Q. Discussion and consideration to renew Health Insurance including EAP with Blue Cross Blue Shield and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources.)

Veronica Ramirez, Human Resources Director, recommended approval to renew as there is no increase in premiums.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve and renew Health Insurance including EAP with Blue Cross Blue Shield as presented. The motion carried unanimously; Mayor Suarez was present and voting.

R. Discussion and consideration to renew Supplemental Insurance including 125 Cafeteria plan and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources.)

Veronica Ramirez recommended approval stating there is no cost increase and benefits remain the same with the following carriers: Ameriflex-FSA/125; Colonial Life-Cancer/Critical Illness; Cigna-Accident; Eyetopia-Vision; Blue Cross Blue Shield-Dental and The Standard-short/long term disability and term life & ADD.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve and renew Supplemental Insurance including 125 Cafeteria plan as presented. The motion carried unanimously; Mayor Suarez was present and voting.

S. Discussion and consideration to renew with Texas Municipal League and Intergovernmental Insurance (TMLIRP):

1. Workers Compensation

2. Commercial Package (General Liability/Professional, Law Enforcement Liability, Errors & Omissions Liability, Auto Liability, Auto Physical Damage, Aviation, Real & Personal Property, Flood & Earthquake, Mobile Equipment, Ocean Marine, Crime, etc.)

and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources.)

Veronica Ramirez, HR Director, recommended to renew with Texas Municipal League the Workers Compensation and Commercial Package. There was a reduction in workers compensation claims of \$52,680.00 and an increase in the commercial package of 1.3%.

Mayor Pro Tem Tafolla, seconded by Commissioner Lopez, moved to approve and renew with Texas Municipal League and Intergovernmental Insurance (TMLIRP) the Workers Compensation and Commercial Package as presented. The motion carried unanimously; Mayor Suarez was present and voting.

T. Discussion and consideration to renew Group Basic Life and AD&D and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources.)

Veronica Ramirez, HR Director, stated coverage cost for Group Basic Life increased from \$0.12 to \$0.132 and there is no increase to the AD&D coverage. Staff recommends renewal as increase is minimal.

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr, moved to approve and renew with Dearborn National the Group Basic Life and AD&D. The motion carried unanimously; Mayor Suarez was present and voting.

U. Discussion and consideration to approve an Election Order toward an election of Commissioner District 1 and Commissioner District 4 during the General Election on November 6, 2018 pursuant to Texas Election Code Chapter 271 and authorize the Mayor and Commissioners to execute any related documents. Possible action. (Staffed by City Secretary's Office.)

Elizabeth Walker, City Secretary, recommended approval.

Commissioner Kerr, seconded by Commissioner Lopez, moved to approve an Election Order toward an election of Commissioner District 1 and Commissioner District 4 during the General Election on November 6, 2018 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

V. Discussion and consideration to assign the district for the new park property and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Secretary's Office.)

Elizabeth Walker recommended assignment of the proposed new park to District 5 as the present boundary between districts four and five north of the expressway is Texas Boulevard/FM88.

Commissioner Kerr, seconded by Commissioner Lopez, moved to assign the new park to District 5 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

There were no reports presented; the Commission proceeded immediately to Executive Session.

VII. REPORTS

A. Report by Finance Department - Quarterly Investment Report. Possible action to accept and file.

There was no action.

B. Report by Finance Department - Quarterly Financial Report. Possible action to accept and file.

There was no action.

C. Report by Siemens Technologies on Performance Contracting Agreement.

D. Report by Weslaco Area Chamber of Commerce.

E. Report by Economic Development Corporation of Weslaco.

F. Report by Planning and Code Enforcement.

G. Report by Inframark.

H. Report by Public Works.

VIII. EXECUTIVE SESSION

At 7:44 p.m. Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to convene the regular meeting in Executive Session. The motion carried unanimously; Mayor Suarez was present and voting.

At 10:24 p.m. Mayor Suarez announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public

IX. 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 §551.074 of the Texas Government Code.

There was no action.

B. Personnel - Discussion regarding the Arbitration of Appeal from Gilbert Luna as authorized by §551.074 of the Texas Government Code.

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to authorize the City Attorney to proceed with settlement negotiation as discussed in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

C. Contract Negotiations – Discussion with the City Manager and City Attorney 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.

There was no action.

D. Economic Development – Consultation with City Attorney regarding Economic Development incentive program related to Project Motorcycle as authorized by §551.087 of the Texas Government Code.

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to approve incentives for Project Motorcycle as discussed in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

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

There was no action.

F. Real Property - Consultation with City Attorney on the sale, exchange, lease or value of real property located at 901 N. Airport Drive as authorized by §551.072 of the Texas Local Government Code.

There was no action.

G. Real Property – Consultation with City Attorney on the purchase of real property legally described as Chelsea Park W6.83AC GR 5.22AC Net on Border Avenue as authorized by §551.072 of the Texas Local Government Code.

Commissioner Muñoz, seconded by Commissioner Lopez, moved to authorize the City Manager to negotiate the purchase of property legally described as Chelsea Park W6.83AC GR 5.22AC Net on Border Avenue as discussed in executive session. The motion carried with Commissioner Kerr abstaining; Mayor Suarez was present and voting.

H. Real Property – Consultation with City Attorney on the purchase of real property legally described as West Tract W3.67AC-S10AC-N20AC FT 685 at Dawson and Oregon Streets as authorized by §551.072 of the Texas Local Government Code.

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to authorize the City Manager to negotiate with the owners of real property legally described as West Tract W3.67AC-S10AC-N20AC FT 685 at Dawson and Oregon Streets as discussed in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

I. Real Property - Consultation with City Attorney on the sale, exchange, lease or value of real property located at 1411 W. 18th Street, Weslaco, Texas as authorized by §551.072 of the Texas Local Government Code.

Commissioner Muñoz, seconded by Mayor Pro Tem Tafolla, moved to authorize the City Manager to reduce the sales price of real property located at 1411 W. 18th Street, Weslaco, Texas in consideration of a dedicated 25-foot easement. The motion carried unanimously; Mayor Suarez was present and voting.

X. ADJOURNMENT

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz, moved to adjourn the meeting at 10:26 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker

MAYOR PRO-TEM, Gerardo “Jerry” Tafolla

COMMISSIONER, Leo Muñoz

COMMISSIONER, Greg Kerr

ABSENT
COMMISSIONER, Jose “J.P.” Rodriguez

COMMISSIONER, Letty Lopez

COMMISSIONER, Josh Pedraza



**RECORD OF WORKSHOP
OF THE WESLACO CITY COMMISSION
WEDNESDAY, AUGUST 8, 2018**

On this 8th day of August at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in a Workshop as part of the budget series at City Hall in the Planning Conference Room located at 255 S. Kansas Avenue with the following members present:

Mayor
Mayor Pro-Tem
Commissioner
Commissioner

David Suarez
Gerardo “Jerry” Tafolla
Jose “J.P.” Rodriguez
Letty Lopez

City Manager
City Secretary

Mike R. Perez
Elizabeth M. Walker

Also present: Mary Barrera, Finance Director; Sonia Flores, Assistant Finance Director; Mardoqueo Hinojosa, Planning Director and City Engineer; Pete Garcia, Public Works Director; and Marcelo Cosme, Casimiro Luna, Aurelio Valdez, and Tony Vargas, Public Works supervisors, as well as citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Commissioner Lopez called the meeting to order and certified the public notice of the meeting as properly posted August 3, 2018.

B. Roll Call.

The City Secretary called the roll, noting the absence of Commissioners Munoz, Kerr, and Pedraza.

II. NEW BUSINESS

A. Discussion and consideration of the City of Weslaco Proposed Budget for Fiscal Year 2017-2018.

Members of the public, including Randy Hall, Rick Quintanilla, and Israel Coronado, made inquiries and suggestions regarding drainage improvements.

The City Manager summarized the balanced budget as filed and presented, noting just \$3,655.00 revenue over expenditures. Personnel and projects new this proposed budget include the following: one case manager at the Police Department specializing in juvenile offenders, with a 50/50 cost share split with the Weslaco Independent School District; four resource officers added to the Police Department to be assigned to the Weslaco Independent School District, with a 25/75 cost share with the City bearing 25% salary and benefits cost, estimated at \$95,000.00; two new police patrol vehicles, one used low

boy, \$20,000.00 to finalize the SCADA system at the Water Treatment Plant, \$250,000.00 to rehabilitate the water tower at Bridge and Eighth Streets, and \$25,000.00 for water meters since the Siemens performance contract is installing new ones across the City this year. He noted he is working with the Finance Director to calculate a possible stormwater utility fee for the potential bond issuance.

Mr. Pete Garcia stated that proposed maintenance and operations budgets remain unchanged, but noted requests for a striping machine for traffic division and a lifter for heavy vehicles are added in the proposed budget. Mr. Marcelo Cosme requested to restore the budget to repair water lines and valves, which is usually budgeted at \$100,000, and noted that the City needs to work toward an additional three-person crew in that division as the existing crew works an average of 66-hours/week.

Mr. Mardoqueo Hinojosa reported that Accela is not performing to expectation for the automation of permits. He expects \$82,000.00 in revenue from animal care services by year end and Edinburg and Pharr may join by interlocal agreement. If so, he recommends applying the balance of revenues from their billed services to add a shelter technician, retain a Workforce placement as a full-time employee for GIS mapping, retain the engineering interns through December at 20 hours/week, and allocating \$30,000.00 for a spay/neuter program. He requested that \$2,000.00 be added to communications to issue three more employees cell phones and \$2,000.00 be restored to the equipment budget for hand tools.

III. ADJOURNMENT

With no other business before the Commission this workshop stood adjourned at 7:35 p.m. on August 8, 2018.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker



**RECORD OF WORKSHOP
OF THE WESLACO CITY COMMISSION
THURSDAY, AUGUST 9, 2018**

On this 9th day of August at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in a Workshop as part of the budget series at City Hall in the Planning Conference Room located at 255 S. Kansas Avenue with the following members present:

Commissioner	Greg Kerr
Commissioner	Jose "J.P." Rodriguez
Commissioner	Letty Lopez
Commissioner	Josh Pedraza
City Manager	Mike R. Perez
City Secretary	Elizabeth M. Walker

Also present: Mary Barrera, Finance Director; Sonia Flores, Assistant Finance Director; Police Chief Joel Rivera, Assistant Police Chief Robert Lopez, Jennifer Vilches, Fire Chief Tony Lopez, as well as representatives of the media.

I. CALL TO ORDER

A. Certification of Public Notice.

Commissioner Lopez called the meeting to order and certified the public notice of the meeting as properly posted August 3, 2018.

B. Roll Call.

The City Secretary called the roll, noting the absence of the Mayor, Mayor Pro Tem Tafolla, and Commissioner Munoz.

II. NEW BUSINESS

A. Discussion and consideration of the City of Weslaco Proposed Budget for Fiscal Year 2017-2018.

The Police Chief discussed the department's transition toward intelligence-driven policing, which includes leveraging partnerships. He proposes two new joint initiatives with Weslaco Independent School District, one to assign officers in schools and the other to establish a first offender program for juveniles. Assistant Chief reviewed active and pending grants; the Chief noted irrespective of grant outcomes, the City must invest in an incident reporting management system to comply with 2020 mandate. He presented a loan plan to upgrade the fleet, noting that of sixty vehicles, a third are seized with salvaged titles and the remainder are exceeding age and mileage guidelines. He recommends allocating \$275,000/year to vehicle replacement with ladder purchases. The City Manager noted the

department requested four units this year but was budgeted two. The Chief also reported on the condition of the Police Department facility, with the jail and roof presenting immediate security issues. The City Manager suggested sliding the capital improvement plan one year to dedicate this year to drainage improvements and spend \$600,000.00 this year on facility improvements.

The Fire Chief highlighted the Hurricane Harvey response and the ISO rating improvement. He requested a plan for six new firefighters to meet expectations; the City Manager noted that seven new firefighters were added just two years ago and has concerns that there is a potential for decreased valuations following the flood. The Chief noted an administrative change to grass fire calls outside city limits and plans to re-mount the box of the brush truck to a new chassis.

III. ADJOURNMENT

With no other business before the Commission this workshop stood adjourned at 7:35 p.m. on August 9, 2018.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker



**RECORD OF WORKSHOP
OF THE WESLACO CITY COMMISSION
MONDAY, AUGUST 13, 2018**

On this 13th day of August at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in a Workshop as part of the budget series at City Hall in the Planning Conference Room located at 255 S. Kansas Avenue with the following members present:

Mayor	David Suarez
Commissioner	Leo Munoz
Commissioner	Greg Kerr
Commissioner	Jose "J.P." Rodriguez
Commissioner	Letty Lopez
Commissioner	Josh Pedraza
City Manager	Mike R. Perez
City Secretary	Elizabeth M. Walker

Also present: Sonia Flores, Assistant Finance Director; Leo Gonzalez, IT Director; Rosa Huerta, Municipal Court Administrator; as well as members of the public and representatives of the media.

I. CALL TO ORDER

A. Certification of Public Notice.

Commissioner Lopez called the meeting to order and certified the public notice of the meeting as properly posted August 3, 2018.

B. Roll Call.

The City Secretary called the roll, noting the absence of Mayor Pro Tem Tafolla.

II. NEW BUSINESS

A. Discussion and consideration of the City of Weslaco Proposed Budget for Fiscal Year 2017-2018.

Mr. Leo Gonzalez, IT Director, identified the capital improvements, including anti-virus program and computer replacements as scheduled annually; Commissioner Munoz noted that approximately 15% of the department's operating budget is invested in improvements.

Ms. Elizabeth Walker, City Secretary, reviewed both the City Commission and City Secretary's Office budgets, noting a net increase to one and net decrease to the other, both reflecting booked actual expenditures. Two expenditures that increased the Commission budget are the professional services agreement for EMS training and paid advertising with Texas Border Business monthly publication. Commissioner Lopez suggested assigning the agreement to the EMS budget and the Mayor suggested

using the advertising money to contract marketing services. The City Secretary also reported that due to issues with Accela, the public information module had not been implemented this year; she noted that the funds have been carried over to the upcoming budget and likely will seek that module from a different vendor.

Ms. Rosa Huerta explained that by legislative mandate the court must now have a dedicated bailiff; she will present a court security fee of \$3/misdemeanor for Commission consideration next meeting to help support the unfunded mandate. She also reviewed warrants, amnesty, and scofflaw programs; the City Manager said he will send a report on court collections in his Friday memo. Commissioner Rodriguez requested a credit card reader at the Police Department.

III. ADJOURNMENT

With no other business before the Commission this workshop stood adjourned at 6:52 p.m. on August 13, 2018.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker



**RECORD OF WORKSHOP
OF THE WESLACO CITY COMMISSION
WEDNESDAY, AUGUST 15, 2018**

On this 15th day of August at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in a Workshop as part of the budget series at City Hall in the Planning Conference Room located at 255 S. Kansas Avenue with the following members present:

Mayor Pro-Tem
Commissioner
Commissioner
Commissioner

Gerardo “Jerry” Tafolla
Leo Munoz
Jose “J.P.” Rodriguez
Letty Lopez

City Manager
City Secretary

Mike R. Perez
Elizabeth M. Walker

Also present: Sonia Flores, Assistant Finance Director; Veronica Ramirez, Human Resources Director; Andrew Munoz, Airport Director; Arnoldo Becho, Library Director; Martin Mata, Assistant Library Director; as well as members of the public and representatives of the media.

I. CALL TO ORDER

A. Certification of Public Notice.

Commissioner Lopez called the meeting to order and certified the public notice of the meeting as properly posted August 3, 2018.

B. Roll Call.

The City Secretary called the roll, noting the absence of the Mayor and Commissioners Kerr and Pedraza.

II. NEW BUSINESS

A. Discussion and consideration of the City of Weslaco Proposed Budget for Fiscal Year 2017-2018.

Mr. Andrew Munoz reviewed a five-year history of fuel sales and presented a daily fuel sale and lease collections summary, noting first quarter sales are typically low. He described upcoming prospects and reiterated the need for capital improvement projects such as field clearing, jet towbar, and foreign object and debris device. The Airport continues to maximize the RAMP grant and expenses are in line with previous years. In response to Commissioners Lopez and Rodriguez, the City Manager noted that the City can request KSA Engineers to review the engineering plans from when closed Sugarcane to expand the runway there was no adverse drainage impact on the adjacent neighborhood.

Mr. Arnold Becho reviewed performance measurements as compared against others in Hidalgo

County and across the State with similar service populations, noting Weslaco significantly outperforms others in visits. Mr. Becho reported an uptick in the budget by \$6,000 to support the hotspot program launched this year; Mayor Pro-Tem suggested seeking sponsorships by Frontier or the city's cell phone carrier. Mr. Becho noted that though not in this budget, the City should prepare for a part-time librarian position to implement the Family Place Libraries Grant and meet accreditation standards; the City Manager said he would add it to the list of requests for consideration this budget. Mr. Becho also noted that it is not too soon to visualize the expansion of the library, expressing his preference to upgrade the existing space. In response to Commissioner Lopez, the Library has not yet heard back from WISD regarding the coffee shop concept; the City Manager stated that the City will prepare a Request for Proposals for the second meeting in September should WISD not be ready to proceed.

Ms. Veronica Ramirez reviewed Human Resource functions, including civil service, compliance, and risk management and cafeteria products. She reported the department will start enrollment in health products the last week of August and training on new personnel policies the second week in September. She also reported worker's compensation costs decreased \$52,000.

III. ADJOURNMENT

With no other business before the Commission this workshop stood adjourned at 6:50 p.m. on August 15, 2018.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker



**RECORD OF WORKSHOP
OF THE WESLACO CITY COMMISSION
THURSDAY, AUGUST 16, 2018**

On this 16th day of August at 5:30 p.m., the City Commission of the City of Weslaco, Texas convened in a Workshop as part of the budget series at City Hall in the Planning Conference Room located at 255 S. Kansas Avenue with the following members present:

Mayor Pro-Tem
Commissioner
Commissioner
Commissioner
Commissioner

Gerardo “Jerry” Tafolla
Leo Munoz
Greg Kerr
Jose “J.P.” Rodriguez
Letty Lopez

City Manager
City Secretary

Mike R. Perez
Elizabeth M. Walker

Also present: Mary Barrera, Finance Director; as well as members of the public and representatives of outside agencies.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor Pro-Tem Tafolla called the meeting to order and certified the public notice of the meeting as properly posted August 3, 2018.

B. Roll Call.

The City Secretary called the roll, noting the absence of the Mayor and Commissioner Pedraza.

II. NEW BUSINESS

A. Discussion and consideration of the City of Weslaco Proposed Budget for Fiscal Year 2017-2018.

Ms. Mary Barrera reported little change to the Finance budget, with a small increase to EMS billing division to increase status and compensation for a clerk who when passes a certification is eligible for promotion to specialist. The department is preparing to upgrade software to a higher Incode version. Within utility billing, the meter replacement program is 76% complete, and when fully automated she expects to reduce to two full-time meter reader positions. Capital outlay for this division was reduced from historical \$100,000 to \$25,000 to maintain available inventory.

Ms. Sara Walker and Ms. Vicky Payne Rainwater requested \$65,000.00 on behalf of the museum to offset payroll and insurance. They reported on upcoming events and fundraisers, which offset the cost of utilities and programs.

Ms. Marie McDermott and Mr. Steve Charlton presented the Economic Development Corporation workplan and budget, which conservatively estimates two-percent growth in sales tax though it has been three percent. It allocates \$500,000.00 for the industrial complex and \$100,000.00 for the new park and proposes \$100,000.00 for workforce development. The Corporation hopes that a north industrial complex will support supply companies and a south industrial complex will support cold storage and other logistics companies. When asked about their ability and willingness to address drainage improvements, both assured that because of its 4A/4B status it can contribute and is ready to since, "We are part of the City."

III. ADJOURNMENT

With no other business before the Commission this workshop stood adjourned at 6:42 p.m. on August 16, 2018.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1858
From: Mardoqueo Hinojosa		
Subject: Ordinance 2018-21, amending Ordinance 2013-21, Section 26-34 Drainage with respect to drainage requirements on new subdivisions. (First reading held August 7, 2018; staffed by Planning and Code Enforcement.)		
Background: As presented on special meeting dated July 24, 2018, Subdivision Ordinance is proposing several changes as it relates to drainage. The main topics are to give City Commission the final authority on Subdivision drainage facilities and increase the detention requirement to a proposed 50-year storm. In addition, a requirement for RCP material and minimum size of 24-inches has been incorporated for 2nd reading.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature 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:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Aida Vega Mardoqueo Hinojosa Mike Perez		Created/Initiated Approved Final Approval
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends approval.		
Attachments, if any: O2018-21 Sec._26_34 Drainage (2nd Reading)		
Responsibilities upon Approval: Staff will enforce Ordinance on new subdivisions.		

ORDINANCE 2018-21

AN ORDINANCE AMENDING ORDINANCE NUMBER 2013-22, 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 2013-22 passed and approved on October 15, 2013 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. Any public storm line, within a residential subdivision, must be at least 24-inches in diameter and material must be Reinforced Concrete Pipe (RCP).
- (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 developments 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) *Existing facilities.* Facilities currently discharging storm water to streets without detention will be required to detain storm water run-off if a building permit is requested, if the building does not meet small project exception. The minimum detention requirements shall be based on the building being constructed or remodeled. The storm water run-off may be detained in the landscaped area.
- (e) *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 7th day of August 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



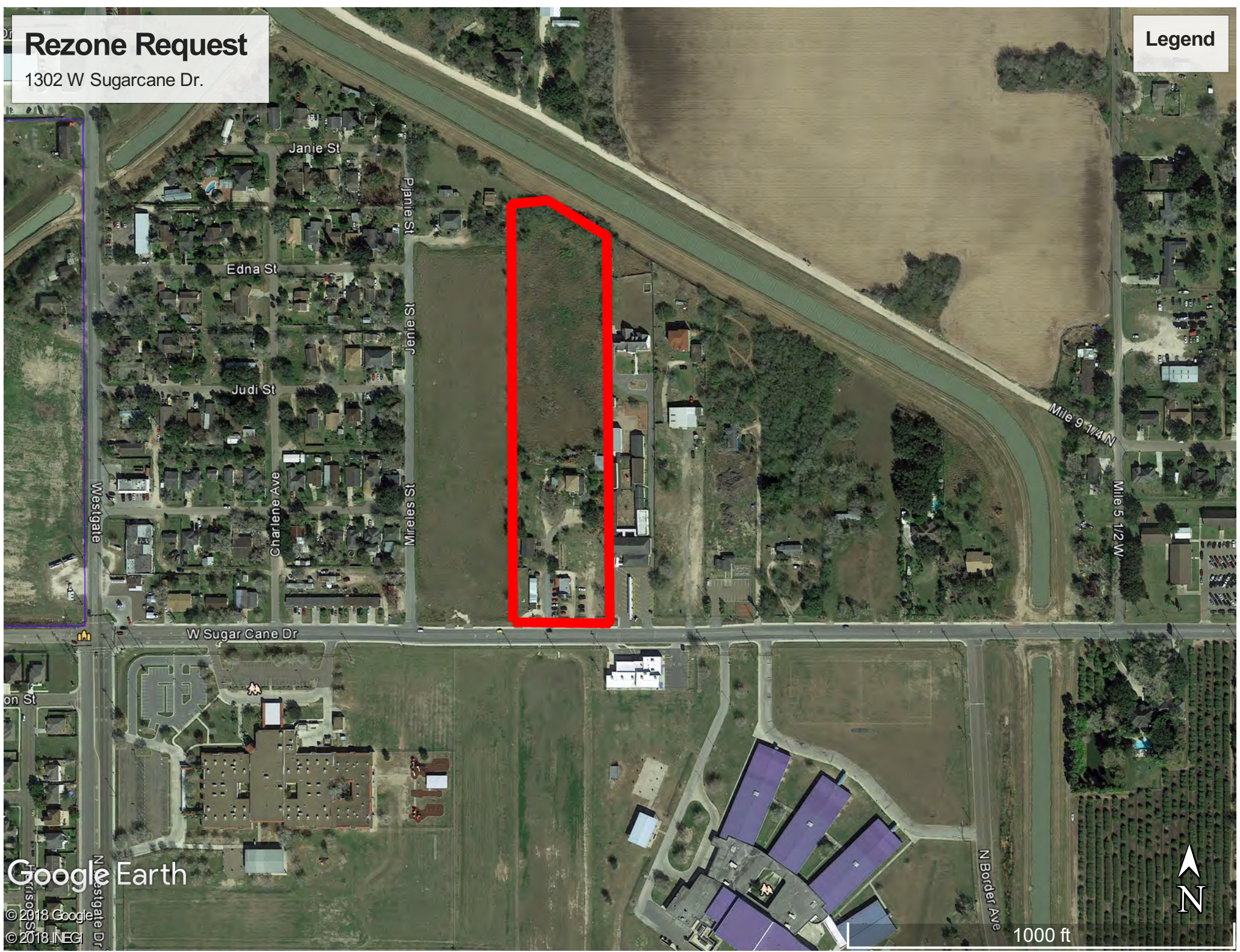
Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1833
From: Mardoqueo Hinojosa		
Subject: Ordinance 2018-22 rezoning 1302 W. Sugarcane Dr. also being West Tract SE 6.43 AC – E 13.49 AC Ft 141, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to B-1 Neighborhood Business. (First reading held August 7, 2018; staffed by Planning and Code Enforcement Department.)		
Background: The applicant is requesting to rezone property from R-1 One Family Dwelling to B-1 Neighborhood Business. Ten (10) property owners within 200 feet of the applicant's property were notified by letter on July 20, 2018.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature 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 appeared in The Monitor on July 16, 2018.		
Advisory Review, if any (name of board/committee, date of action, recommendation): Planning and Zoning recommended approval on August 1, 2018.		
Aida Vega Mardoqueo Hinojosa Mike Perez		Created/Initiated Approved Final Approval
City Manager Comments: Deny.		
Staff Recommendation: Staff recommends denial based on 2040 Zone Map designation.		
Attachments, if any: 1302 W Sugarcane red, 1302 sugarcane - attachments, O2018-22 rezone 1302 W Sugarcane Dr		
Responsibilities upon Approval: Staff will notify applicant.		

Rezone Request

1302 W Sugarcane Dr.

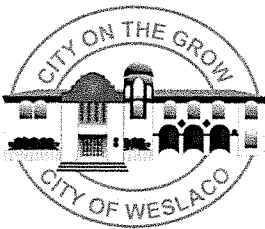
Legend



Google Earth

© 2018 Google
© 2018 INEGI

1000 ft



REZ18-00011

APPLICATION FOR REZONING

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. **RECEIVED**

JUL 11 2018

PROPOSED PROJECT

Legal Description of Property to be rezoned:

Planning &
Code Enforcement Dept.

Lot _____ Block _____

Subdivision Name WEST TRACT SE 6.43 AC - E13.49 AC FT 141Street Address 1302 W. SUGARCANE DRIVE WESLACO TX, 78599

Existing Zoning _____ Existing Land Use _____

Proposed Zoning _____ Proposed Land Use _____

_____ \$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".

APPLICANTName TORRES INVESTMENTS LLC. Phone (956) 746-6260Address 1302 W. SUGARCANE DRIVE Fax: _____City WESLACO State TX Zip Code 78599 E-Mail: _____**OWNER**Name TORRES INVESTMENTS LLC. Phone (956) 746-6260Address 1302 W. SUGARCANE DRIVE Fax: _____City WESLACO State TX Zip Code 78599 E-Mail: _____

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 _____

Date 7/11/18

Signature _____

Date 7/11/18

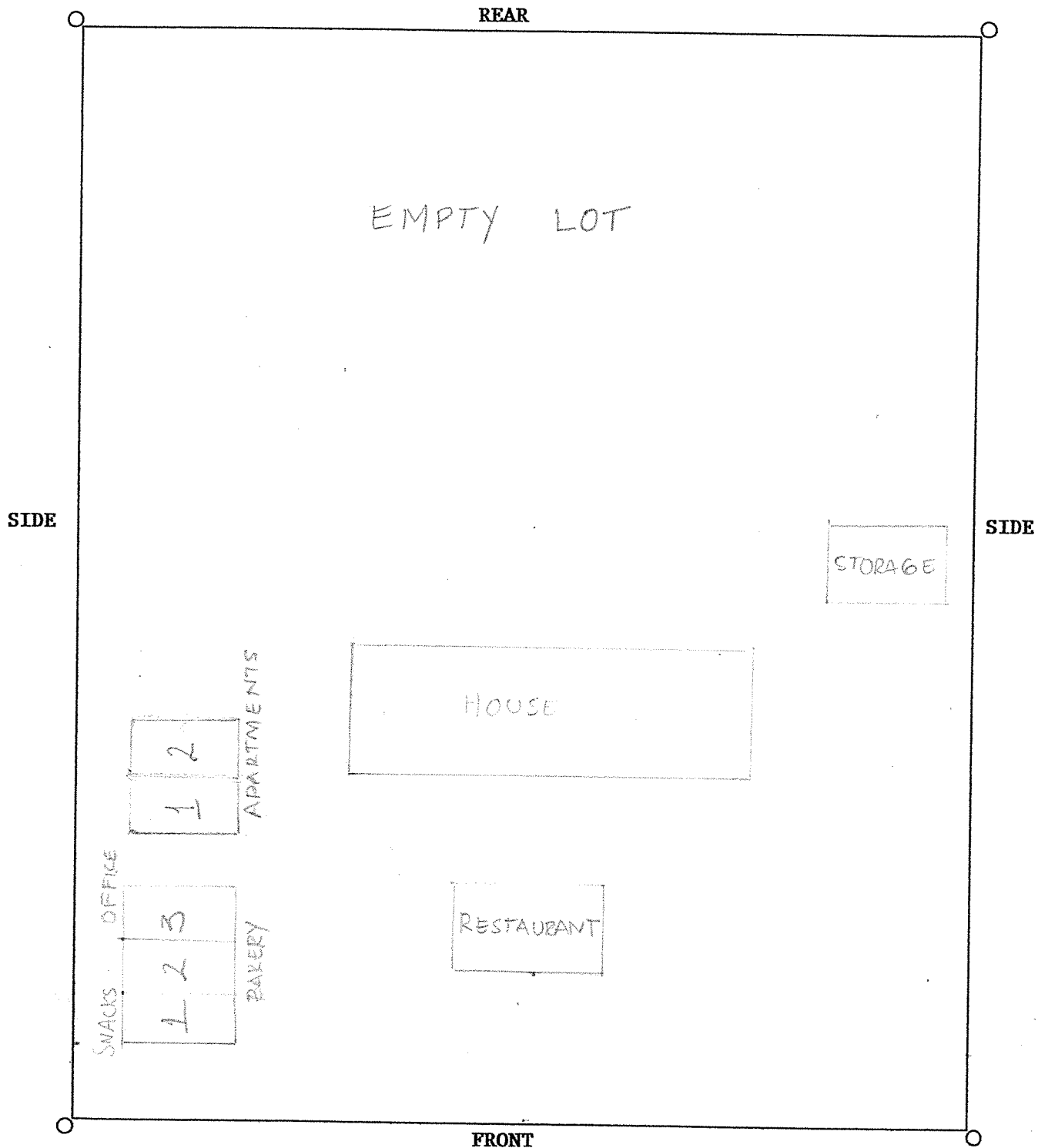
Signature _____

Date _____

Authorized Agent

Attach to application

Date: 7/11/18



Description of improvement: _____

Width of lot: _____

Depth of lot: _____

Also indicate the distance between structures on site plan.

For review you must indicate the front, side, and rear setbacks from property lines.

TAX CERTIFICATE



PABLO (PAUL) VILLARREAL JR., PCC
HIDALGO COUNTY TAX ASSESSOR - COLLECTOR
PO BOX 178
EDINBURG, TEXAS 78540

Issued To:

TORRES INVESTMENTS LLC
1302 W SUGAR DR
WESLACO, TX 78599

Legal Description

WEST TRACT SE 6.43AC-E13.49AC FT 141
BNG AN IRR TR 5.91 AC NET

Fiduciary Number: 26430219

Parcel Address: 1302 W SUGAR CANE DR

Legal Acres: 5.9100

< - - -

- - - >

Account Number: W3800-00-141-0000-00

Deposit No.: ED18135107TC

Certificate No: 235131656

Certificate Fee: \$10.00

Print Date: 05/15/2018

Paid Date: 05/15/2018

Issue Date: 05/15/2018

Operator ID: JESSICAD107

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 AND 11.43(i) OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2017. ALL TAXES ARE PAID IN FULL

Exemptions:

CAPPED DEFERRAL HOMESTEAD OVER 65

Certified Owner:

MONTALVO FRANCES G
1302 W SUGAR CANE DR
WESLACO, TX 78599-3886

Certified Tax Unit(s):

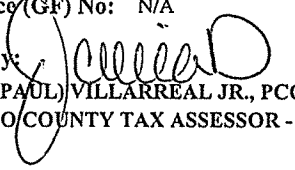
1 HIDALGO COUNTY
2 DRAINAGE DIST #1
40 CITY OF WESLACO
53 WESLACO ISD
54 SOUTH TEXAS ISD
55 SOUTH TEXAS COLLEGE

2017 Value:	294,724
2017 Levy:	\$7,074.70
2017 Levy Balance:	\$0.00
Prior Year Levy Balance:	\$0.00
Total Levy Due:	\$0.00
P&I + Attorney Fee:	\$0.00
Total Amount Due:	\$0.00

PROPERTY OMITTED FROM THE APPRAISAL ROLL AS DESCRIBED UNDER TAX ROLL SECTION 25.21 IS NOT INCLUDED IN THE CERTIFICATE [TAX ROLL SECTION 31.08(B)].

THE ABOVE PROPERTY HAS RECEIVED AN OVER 65, DISABILITY OR 100% VETERAN EXEMPTION FOR THE CURRENT YEAR. ADDITIONAL TAXES MAY BECOME DUE BASED ON THE QUALIFICATIONS OF THE SELLER/BUYER OF THIS PROPERTY. DUE TO ITS ASSIGNED USAGE, THE ABOVE LEGAL PROPERTY MAY HAVE RECEIVED SPECIAL VALUATION, AND ADDITIONAL ROLLBACK TAXES MAY BECOME DUE BASED ON THE PROVISIONS OF THE SPECIAL VALUATION.

Reference (GF) No: N/A

Issued By: 
PABLO (PAUL) VILLARREAL JR., PCC
HIDALGO COUNTY TAX ASSESSOR - COLLECTOR



This certification does not include any mineral estates in and to said land where severance thereof has been affected by sale, reservation lease, pooling agreement, unitization or otherwise.

TAX RECEIPT



PABLO (PAUL) VILLARREAL JR., PCC
HIDALGO COUNTY TAX ASSESSOR - COLLECTOR
PO BOX 178
EDINBURG, TEXAS 78540

Certified Owner:

MONTALVO FRANCES G
1302 W SUGAR CANE DR
WESLACO, TX 78599-3886

Legal Description:

WEST TRACT SE 6.43AC-E13.49AC FT 141
BNG AN IRR TR 5.91 AC NET

Parcel Address: 1302 W SUGAR CANE DR

Legal Acres: 5.9100

Deposit No: ED18135107A
Validation No: 900000053403691

Account No: **W3800-00-141-0000-00**
Operator Code: JESSICAD107

Remit Seq No: 38254813
Receipt Date: 05/15/2018
Deposit Date: 05/15/2018
Print Date: 05/15/2018 02:17 PM
Printed By: JESSICAD107
Appr. Dist. No.: 324613

Year	Tax Unit Name	Rec Type	Tax Value	Tax Rate	Levy Paid	P&I	Coll Fee Paid	Total
2017	Hidalgo County	TL	265,224	0.580000	1,538.30	25.64	0.00	1,563.94
2017	Drainage Dist #1	TL	280,224	0.095100	266.49	4.44	0.00	270.93
2017	City Of Weslaco	TL	270,224	0.666700	1,782.67	29.71	0.00	1,812.38
2017	Weslaco Isd	TL	245,224	1.159700	2,843.86	47.40	0.00	2,891.26
2017	South Texas Isd	TL	280,224	0.049200	137.87	2.30	0.00	140.17
2017	South Texas College	TL	280,224	0.185000	505.51	8.43	0.00	513.94
2016	Hidalgo County	TL	232,017	0.590000	1,368.90	128.91	0.00	1,497.81
2016	Drainage Dist #1	TL	247,017	0.095100	234.91	22.12	0.00	257.03
2016	City Of Weslaco	TL	237,017	0.666700	1,580.19	148.80	0.00	1,728.99
2016	Weslaco Isd	TL	212,017	1.139700	2,416.36	227.54	0.00	2,643.90
2016	South Texas Isd	TL	247,017	0.049200	121.53	11.44	0.00	132.97
2016	South Texas College	TL	247,017	0.185000	453.08	42.67	0.00	495.75
2015	Hidalgo County	TL	234,382	0.590000	1,382.85	240.85	0.00	1,623.70
2015	Drainage Dist #1	TL	249,382	0.095100	237.16	41.30	0.00	278.46
2015	City Of Weslaco	TL	239,382	0.676700	1,619.90	282.13	0.00	1,902.03

> - -

- - <

Check Number(s):

390431

PAYMENT TYPE:

Checks: \$22,310.72

Exemptions on this property:

CAPPED
DEFERRAL
HOMESTEAD
OVER 65

Total Applied: \$22,310.72
Total Tended: \$22,310.72
(for accounts paid on 05/15/2018)
Change Paid: \$0.00

PAYER: 26430219
TORRES INVESTMENTS LLC
1302 W SUGAR DR
WESLACO, TX 78599

TAX RECEIPT



PABLO (PAUL) VILLARREAL JR., PCC
HIDALGO COUNTY TAX ASSESSOR - COLLECTOR
PO BOX 178
EDINBURG, TEXAS 78540

Certified Owner:

MONTALVO FRANCES G
1302 W SUGAR CANE DR
WESLACO, TX 78599-3886

Legal Description:

WEST TRACT SE 6.43AC-E13.49AC FT 141
BNG AN IRR TR 5.91 AC NET

Parcel Address: 1302 W SUGAR CANE DR

Legal Acres: 5.9100

Deposit No: ED18135107A
Validation No: 900000053403691

Account No: **W3800-00-141-0000-00**
Operator Code: JESSICAD107

Remit Seq No: 38254813
Receipt Date: 05/15/2018
Deposit Date: 05/15/2018
Print Date: 05/15/2018 02:17 PM
Printed By: JESSICAD107
Appr. Dist. No.: 324613

Year	Tax Unit Name	Rec Type	Tax Value	Tax Rate	Levy Paid	P&I	Coll Fee Paid	Total
2015	Weslaco Isd	TL	214,382	1.139700	2,443.31	425.54	0.00	2,868.85
2015	South Texas Isd	TL	249,382	0.049200	122.70	21.37	0.00	144.07
2015	South Texas College	TL	249,382	0.185000	454.82	79.22	0.00	534.04
2014	Hidalgo County	TL	242,208	0.590000	221.65	56.34	0.00	277.99
2014	Drainage Dist #1	TL	257,208	0.095700	38.18	9.71	0.00	47.89
2014	Ems Dist #1	TL	257,208	0.016500	6.58	1.68	0.00	8.26
2014	Weslaco Isd	TL	232,208	1.139700	448.81	114.07	0.00	562.88
2014	South Texas Isd	TL	257,208	0.049200	19.63	4.99	0.00	24.62
2014	South Texas College	TL	257,208	0.185000	70.85	18.01	0.00	88.86
					\$20,316.11	\$1,994.61	\$0.00	\$22,310.72

CITY OF WESLACO LEGAL NOTICE

The Weslaco Planning and Zoning Commission will hold a public hearing on Wednesday, August 1, 2018 at 5:30 p.m. and the City Commission will also hold a Public Hearing on Tuesday, August 7, 2018 at 5:30 p.m. at the City Hall Legislative Chambers located at 255 South Kansas Avenue to consider the following request:

Si desea informacion en español, llame al departamento de Planeación de la Ciudad de Weslaco, (956) 447-3403.

El Compadre Restaurant y Cantina is requesting a Conditional Use Permit to obtain a Mixed Beverage Permit, Mixed Beverage Late Hours Permit at 702 S. Texas Blvd. also being Original Townsite of Weslaco, Hidalgo County, Texas.

Torres Investments LLC is requesting to rezone 1302 W. Sugarcane. Also being West Tract SE 6.43 AC-E 13.49 AC FT 141, Weslaco, Hidalgo County, and Texas from R-1 One Family Dwelling to B-1 Neighborhood Business.

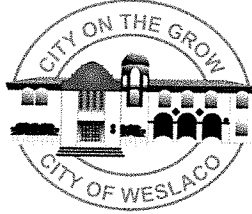
AEC Engineering C/O Carlos Garza, P.E. is requesting to rezone 720 N. International Blvd. Also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, tract 1030, TDB-Brito Apartments, Weslaco, Hidalgo County, and Texas from R-1 One Family Dwelling to B-1 Neighborhood Business.

The public is invited to attend and express support for or opposition to these applications. You may also file written support or opposition on or before August 1, 2018, for the Planning and Zoning Commission and on or before August 7, 2018, for the City Commission. For additional information, contact the Planning Department at (956) 447-3403

/S/ MARDOQUEO HINOJOSA, P.E., CFM
Planning Director/City Engineer

City of Weslaco

"The City on the Grow"



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

Mike R. Perez, City Manager

PLANNING DEPARTMENT

July 20, 2018

Legal Notice

Dear Occupant:

The Weslaco Planning and Zoning Commission will hold a public hearing on Wednesday, August 1, 2018 at 8:00 a.m. and the City Commission will also hold a public hearing on Tuesday, August 7, 2018 at 5:30 p.m. at the City Hall Legislative Chambers located at 255 South Kansas Avenue to consider the following request:

REZONE REQUEST:

Torres Investments LLC. is requesting to rezone 1302 W. Sugarcane Dr. Also being West Tract SE 6.43 AC – E 13.49 AC Ft 141, Weslaco, Hidalgo County, and Texas from R-1 One Family Dwelling to B-1 Neighborhood Business.

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.

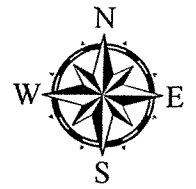
Si desea información en español, por favor llame al departamento de Planeación de la ciudad de Weslaco, (956) 447-3403.

Sincerely,

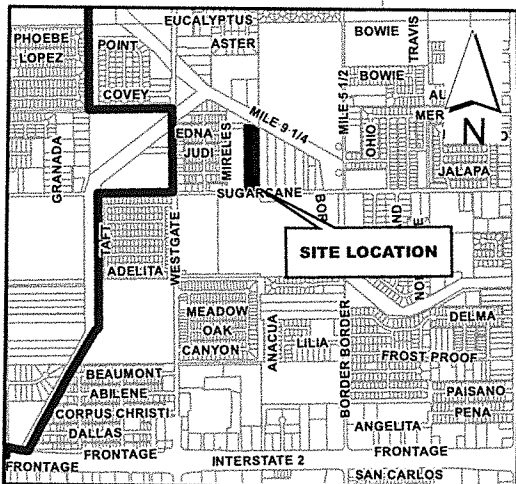
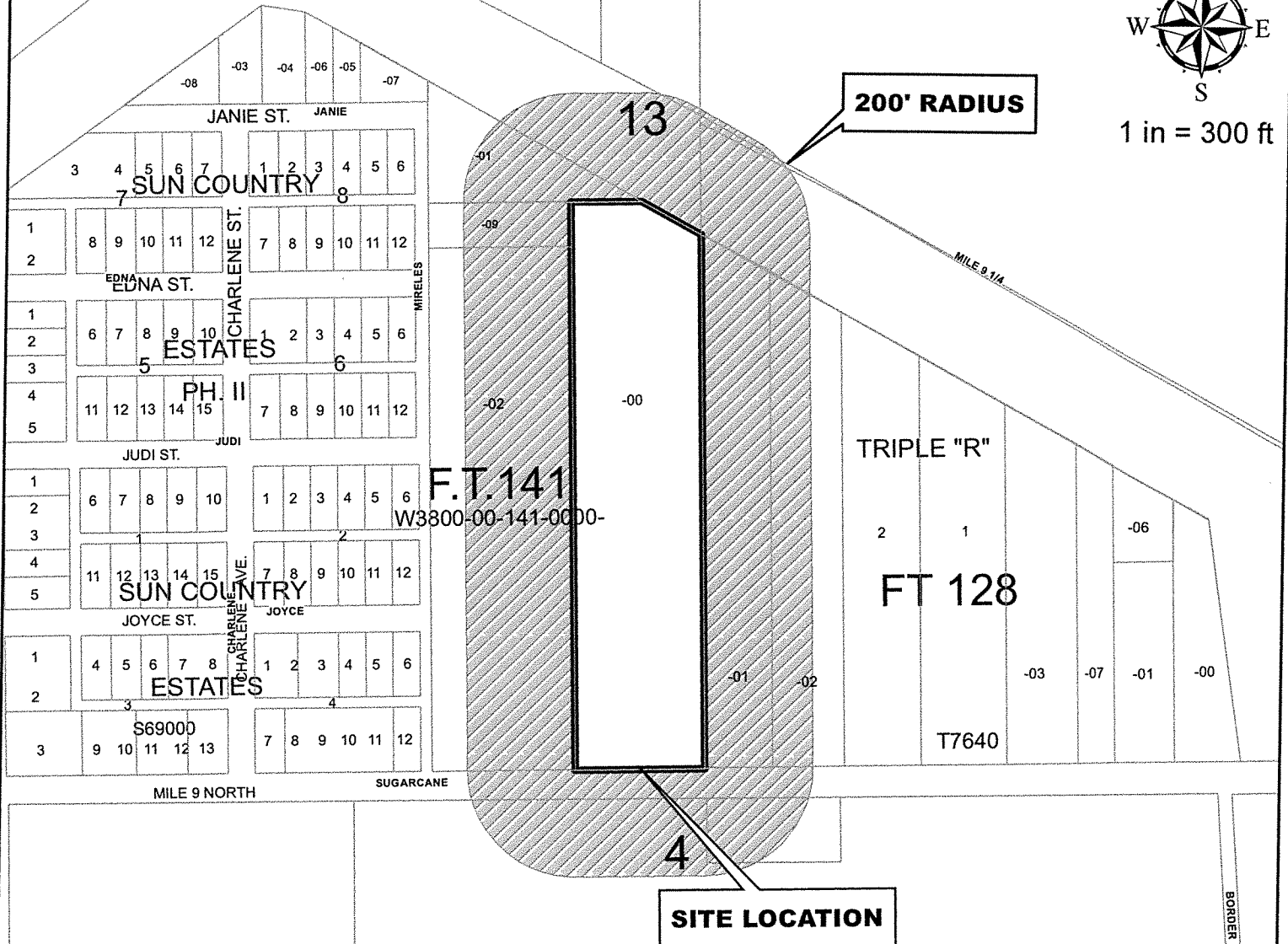
Mardoqueo Hinojosa, P.E., CFM
Planning Director/City Engineer

W3800-00-210-0000-10

200-0000-01 200-0000-01



1 in = 300 ft



PANTHER

LOT 2

W. I. S. D.

BEATRIZ. G. GARZA

INTERMEDIATE SCHOOL

Torres Investments LLC
1302 W. Sugarcane Drive
West Tract SE 6.43 AC-E
13.49 AC FT 141

Purpose for the rezone request

Existing zoning:

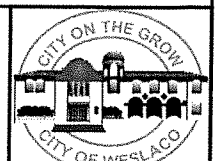
R-1

Existing land use:

Business and Apartments

Prop zone:

Neighbor Business



City of Weslaco Code Enforcement Dept.

JUL 17, 2018

SOUTH TEXAS EDUCATIONAL TECHNOLOGIES INC 519 S TEXAS BLVD WESLACO TX 78596	F7040-00-000-0001-00 L. L. FRERKING LOT 1 1223 W SUGAR CANE DR	L: 95095 B: 948866
BARRERA, MARK A & EUNICE F 884 QUAIL HOLLOW DR WESLACO TX 78596-7832	Q0950-00-001-0002-00 QUAIL HOLLOW LOT 2 BLK 1 884 QUAIL HOLLOW DR	L: 34560 B: 97290
ANSARI ALIM U 1222 W SUGAR CANE DR WESLACO TX 78599	W3800-00-128-0000-01 WEST TRACT W2.847AC-16.912AC FT 128 2.847AC NET 0	L: 239671 B: 531636
GALLEGOS DARIO 1224 W SUGAR CANE DR WESLACO TX 78599	W3800-00-128-0000-02 WEST TRACT E2.75AC-W5.597AC-16.9 12AC FT 128 2.75AC NET 0	L: 104016 B: 95246
MONTALVO FRANCES G 1302 W SUGAR CANE DR WESLACO TX 78599	W3800-00-141-0000-00 WEST TRACT SE 6.43AC-E13.49AC FT 141 BNG AN IRR TR 5.91 AC NET 0	L: 121155 B: 173569
CONTRERAS AIDA & LINA OLVERA 3624 MAY ST FORT WORTH TX 76110	W3800-00-141-0000-01 WEST TRACT NE1.01AC-E13.49AC FT 141 0	L: 46177 B: 9763
RIVAS ISRAEL LEE 813 LARRY TWAYNE WAY EDINBURG TX 78541-1088	W3800-00-141-0000-02 WEST TRACT W264'-E504.25'-S1000' FT 141 6.06AC 1402 W SUGAR CANE DR	L: 0 B: 0
MONTES JUAN 2828 MIRELES ST WESLACO TX 78599	W3800-00-141-0000-09 WEST TRACT 0.515AC-E13.49AC FT 1 41 0.52AC NET 0	L: 37711 B: 46503
REYES ONESIMO JR 811 REBECCA ST WESLACO TX 78596	W3800-00-208-0000-04 WEST TRACT AN IRR TR S523.82'-E1 83.34'-FT 208 2.00 AC NET 0	L: 51834 B: 16155
PAYNE E M 2401 E EXPRESSWAY 83 WESLACO TX 78599	W3800-00-209-0000-00 WEST TRACT 53.13AC OF FT 209 51. 84AC NET 0	L: 0 B: 0

ORDINANCE NO. 2018-22

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 320 AND AMENDING THE ZONING MAP OF THE CITY OF WESLACO TO CHANGE THE ZONING OF 1302 W. SUGARCANE DR. ALSO BEING WEST TRACT SE 6.43 AC – E 13.49 AC FT 141, WESLACO, HIDALGO COUNTY, TEXAS, FROM R-1 ONE FAMILY DWELLING TO B-1 NEIGHBORHOOD BUSINESS DISTRICT.

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

SECTION I: R-1 One Family Dwelling District to B-1 Neighborhood Business District being 1302 W. Sugarcane Dr. also being West Tract SE 6.43 AC – E 13.49 AC FT141, 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 7th day of August, 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 21st day August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



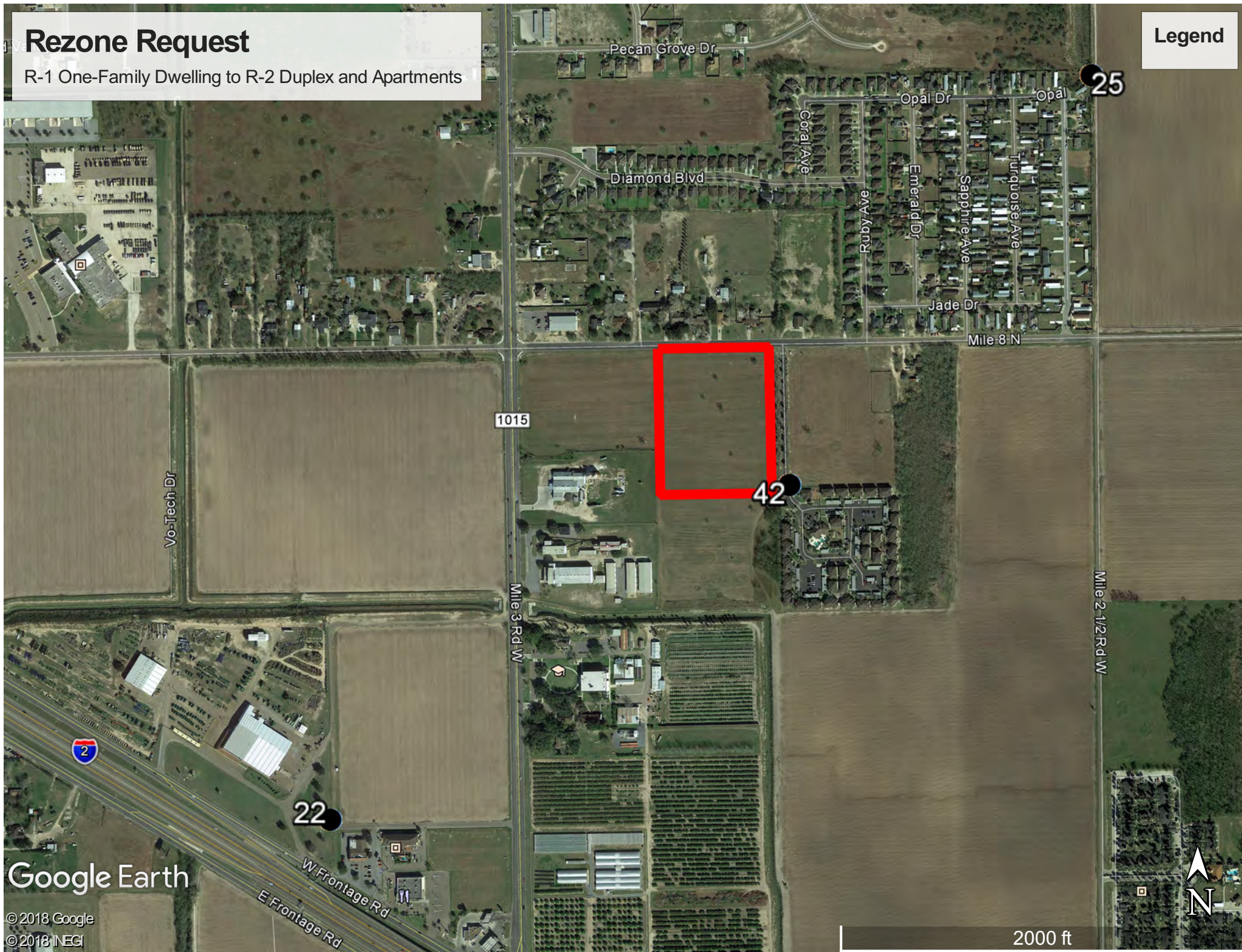
Standardized Agenda Request Form

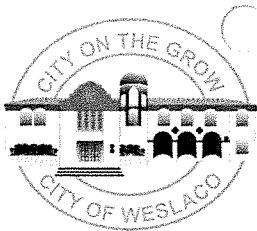
Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1834
From: Mardoqueo Hinojosa		
Subject: Ordinance 2018-23 rezoning 720 International Blvd. Also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, Tract 1030, TDB-Brito Apartments, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling to R-2 Duplex and Apartments District. (First reading held August 7, 2018; staffed by Planning and Code Enforcement Department.)		
Background: The applicant is requesting to rezone property from R-1 One Family Dwelling to R-2 Duplex and Apartments District. Seventeen (17) property owners within 200 feet of the applicant's property were notified by letter on July 20, 2018.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature 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 appeared in The Monitor on July 16, 2018.		
Advisory Review, if any (name of board/committee, date of action, recommendation): Planning and Zoning recommended approval on August 1, 2018.		
Aida Vega Mardoqueo Hinojosa Mike Perez		Created/Initiated Approved Final Approval
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends approval.		
Attachments, if any: 720 N. international red, TBD-BRITO APARTMENTS - ATTACHMENTS, O2018-23 rezone 720 International Blvd		
Responsibilities upon Approval: Staff will notify applicant.		

Rezone Request

R-1 One-Family Dwelling to R-2 Duplex and Apartments

Legend





APPLICATION FOR REZONING

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. Rez18.00012

PROPOSED PROJECT

Legal Description of Property to be rezoned:

Lot West and Adams Subdivision Block TRACT 1030

Subdivision Name TBD - BRITO APARTMENTS

Street Address SEC FM 1015 AND MILE 8 NORTH

Existing Zoning R1 Existing Land Use AGRICULTURE

Proposed Zoning R2 Proposed Land Use APARTMENTS

- ☒ \$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 AEC ENGINEERING C/O CARLOS GARZA, P.E. Phone 956.380.6558

Address P.O. BOX 480 Fax: 956.380.6110

City EDINBURG State TX Zip Code 78540 E-Mail: carlos@aecengineering.net

OWNER

Name MJVM, LLC Phone 956.380.6558

Address 3511 Los Indios Parkway Fax: _____

City Mission State TX Zip Code 78572 E-Mail: _____

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 _____ Date _____
Owner
Signature _____ Date 07/11/18
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. _____

THE INTENT OF ZONING

Zoning is defined as the division of a municipality into districts for the purpose of regulating the use of private land. A city's police powers enable the municipality to regulate various land welfare of the entire public. They have been designed to lessen the congestion in the streets; to secure safety from, fire, panic, or other dangers; to provide adequate light and air, to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements. Zoning must be done in accordance with a comprehensive master plan. Such a plan will be a pattern for future development and prohibits the arbitrary and capricious control of land.

HOW AM I AFFECTED

A city's unique character, just like Weslaco is preserved through the various arrangements of land uses permitted in an area. If incomplete land uses are placed together then the safety and character of Weslaco will be placed in danger. Zoning is used as a tool to establish and maintain the character of a neighborhood, if improper land uses are permitted; in the future they became non-conforming uses and spoil the character of an area. Zoning intent is to prevent this and cannot deny the continued use of a site if the site is non-conforming to the rest of the area. The intent of zoning is to provide guidelines for creating compatible land uses and provide the character Weslaco wishes to preserve.

A STATEMENT ON WESLACO'S ZONING ORDINANCE

Weslaco's Zoning Ordinance consists of the description of uses permitted in each district. It defines the different types of uses permitted in each zone. The Zoning Ordinance specifies height regulations, accessory building regulations parking and loading regulations and area, and density regulations.

WHAT IF A BUILDING OR SITE DOES NOT COMPLY WITH ITS ZONING

If a building infringes upon the required building setbacks requirements; the Weslaco Board of Adjustments and Appeals of Zoning must consider the granting of an exception and may permit modifications to various building and lot requirements when necessitated. This may be due to the unusual size or shape of a parcel of land. Board of Adjustments and Appeals of Zoning Petition Packages are available at the Planning Department.

REZONING APPLICATIONS INSTRUCTIONS

1. Application form must be completed in full with applicant's signature.
2. Statement must be attached to the application stating why the rezoning is requested and the type of operation to be conducted on the property.
3. A three-hundred dollar (\$300.00) application fee must also be submitted along with the application.
4. Once the application is submitted in completed form, the Planning Department is required by State Law to notify by mail all property owners within the 200 foot radius of the affected proposed zone change and advertise in a newspaper fifteen (15) days prior to the public hearing to be held by both the Planning and Zoning and City Commissions on the zone change request.
5. After the Planning and Zoning Commission meeting, the request will be placed on the next available City Commission agenda for final consideration.
6. Should the Planning and Zoning Commission or the owners of 20% of the property within the 200 foot radius of the proposed zone change request, oppose the request, a $\frac{3}{4}$ th vote will be required by the City Commission to receive approval.
7. Only after the second and final reading by the City Commission of the rezoning ordinance, may the activity proposed on the property begin operation after all appropriate permits have been issued.

RIO-DELTA SURVEYING
24593 F.M. 88
Monte Alto, Texas 78538
956-380-5154 956-380-5156 fax

METES AND BOUNDS DESCRIPTION
12.31 ACRE (536,223.6 S.F.)

A 12.31 GROSS ACRE TRACT OF LAND (536,223.6 S.F.), MORE OR LESS, OUT OF FARM TRACT 1030, WEST AND ADAMS TRACT SUBDIVISION, HIDALGO COUNTY, TEXAS, ACCORDING TO MAP RECORDED IN VOLUME 2, PAGE 34-37, H.C.M.R. MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

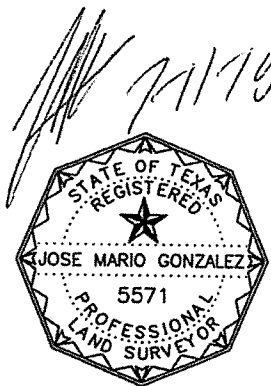
BEGINNING AT THE NORTH EAST CORNER OF FARM TRACT 1030, WEST AND ADAMS TRACT SUBDIVISION, HIDALGO COUNTY, TEXAS, ACCORDING TO MAP RECORDED IN VOLUME 2, PAGE 34-37, H.C.M.R., FOR THE NORTH EAST CORNER OF THIS TRACT OF LAND;

THENCE, S 01° 11' 08" E, PASS A FOUND IRON ROD AT THE SOUTH RIGHT-OF-WAY LINE OF MILE 8 NORTH ROAD (VOL.2, PG. 34-37 H.C.M.R. & DOC. #537567, H.C.O.R.) AT 30 FEET, PASS THE SOUTH EASEMENT LINE FOR NORTH ALAMO WATER SUPPLY CORPORATION (VOL.1984, PG.288, H.C.O.R.) AT 45 FEET, AND CONTINUING FOR A TOTAL DISTANCE OF 879.00 FEET TO A FOUND IRON ROD ALONG THE EAST LINE OF SAID FARM TRACT 1030, FOR THE SOUTHEAST CORNER OF THIS TRACT OF LAND;

THENCE, S 88° 48' 52" W, A DISTANCE OF 610 FEET TO A FOUND IRON ROD FOR THE SOUTH WEST CORNER OF THIS TRACT OF LAND;

THENCE, N 01° 11' 08" W, PASS A FOUND IRON ROD AT 361.00 FEET, PASS THE SOUTH EASEMENT LINE FOR NORTH ALAMO WATER SUPPLY CORPORATION (VOL.1984, PG.288, H.C.O.R.) AT 849.00 FEET, PASS THE SOUTH RIGHT-OF-WAY LINE OF MILE 8 NORTH ROAD (VOL.2, PG. 34-37 H.C.M.R. & DOC. #537567, H.C.O.R.) AT 864.00 FEET, AND CONTINUING FOR A TOTAL DISTANCE OF 879.00 FEET TO A POINT ALONG THE CENTERLINE OF MILE 8 NORTH ROAD, AND NORTH LINE FARM TRACT 1030, FOR THE NORTH WEST CORNER OF THIS TRACT OF LAND;

THENCE, N 88° 48' 52" E, ALONG THE SAID CENTERLINE OF MILE 8 NORTH ROAD, AND NORTH LINE FARM TRACT 1030, A DISTANCE OF 610.00 FEET TO THE NORTH EAST CORNER OF SAID FARM TRACT 1030 AND THE POINT OF BEGINNING AND CONTAINING A 12.31 GROSS ACRE TRACT OF LAND (536,223.6 S.F.) OF LAND MORE OR LESS.



BEARING BASIS BASED ON NAD83
TEXAS STATE PLANES
SOUTH ZONE, US FOOT



RIO DELTA SURVEYING
24593 FM 88, MONTE ALTO, TX 78538
(TEL) 956-380-5154 (FAX) 956-380-5156
EMAIL: MARIO@RIODELTASURVEYING.COM
FIRM No. 10013900

WEST LINE OF FARM TRACT 1030
F.M. 1015

Q MILE 8 NORTH ROAD

NORTH LINE OF FARM TRACT 1030

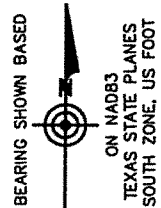
N88° 48' 52"E 610.00'

30' R.O.W. VOL.2, PG.34-37 H.C.M.R. & DOC. # 537567, H.C.O.R.

15' R.O.W. ESMT TO N.A.W.S.C. VOL.1984, PG.288, H.C.O.R.

P.O.B.—NEC
F.T.1030

NWC
F.T.1030



SCALE: 1" = 100'

LEGEND

- ⊗ - FD. 1/2 INCH IRON ROD
- - FD. X-CUT IN CONC.

SOUTH TEXAS PLANTING SEED ASSOCIATION, INC.
DOC. # 407910, H.C.O.R.

MAP SHOWING

A 12.31 GROSS ACRE TRACT OF LAND, MORE OR LESS, OUT OF FARM TRACT 1030, WEST AND ADAMS TRACT SUBDIVISION, HIDALGO COUNTY, TEXAS, ACCORDING TO MAP RECORDED IN VOLUME 2, PAGE 34-37, H.C.M.R.



N1° 11' 08"W 879.00'

488.00'

361.00'

PROPOSED R2 ZONING AREA

GROSS	12.31 AC.
MILE 8 NORTH R.O.W.	0.42 AC.
NET	11.89 AC.

S1° 11' 08"E 879.00'

EAST LINE OF FARM TRACT 1030

S88° 48' 52"W 610.00'

PIONEER HI-BRED INTERNATIONAL, INC.
VOL.1783, PG.634, H.C.D.R.



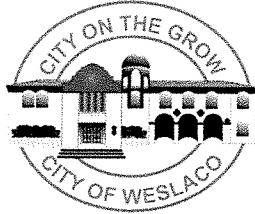
RIO DELTA SURVEYING

24593 FM 88, MONTE ALTO, TX 78538
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City of Weslaco

"The City on the Grow"



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

Mike R. Perez, City Manager

PLANNING DEPARTMENT

July 20, 2018

Legal Notice

Dear Occupant:

The Weslaco Planning and Zoning Commission will hold a public hearing on Wednesday, August 1, 2018 at 8:00 a.m. and the City Commission will also hold a public hearing on Tuesday, August 7, 2018 at 5:30 p.m. at the City Hall Legislative Chambers located at 255 South Kansas Avenue to consider the following request:

REZONE REQUEST:

AEC Engineering C/O Carlos Garza, P.E. is requesting to rezone 720 N. International Blvd. Also being SEC FM 1015 and Mile 8 North, West and Adams subdivision, tract 1030, TDB-Brito Apartments, Weslaco, Hidalgo County, and Texas from R-1 One Family Dwelling to R-2 Duplex and Apartments 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.

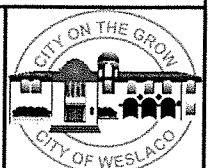
Si desea información en español, por favor llame al departamento de Planeación de la ciudad de Weslaco, (956) 447-3403.

Sincerely,

Mardoqueo Hinojosa, P.E., CFM
Planning Director/City Engineer



Purpose for the rezone request
Existing zoning: R-1
Existing land use: Agriculture
Prop zone: R-2 Apartments



JUL 17, 2018

KRISHNAN S GOPAL MD THE KRISHNAN REAL PROP LMTD PR 2213 S VICTORIA RD DONNA TX 78537	A0800-00-000-1029-00 ADAMS TRACT FT 1029 E636.24'-N66 0' 9.63AC GR 8.73AC NET 0 N FM 1015	L: 0 B: 0
1015 RAINBOW LTD 2006 SAHARA DR WESLACO TX 78596	A0800-00-000-1029-05 ADAMS TRACT FT 1029 EXC E636.24' -N660' 40.00AC GR 38.93AC NET 0 N FM 1015	L: 0 B: 0
TRIPLE J LEASING LLC 201 NE 21ST ST FORT WORTH TX 76164	A0800-00-000-1030-00 ADAMS TRACT W710'-S361'-N879' FT 1030 5.88AC GR 5.55AC NET 0	L: 179820 B: 208229
RANCHO BRITO LLC 3511 LOS INDIOS PARKWAY MISSION, TX 78572	A0800-00-000-1030-05 ADAMS TRACT N518' & E610'-S361'- N879'-FT 1030 20.76AC GR 19.39AC 820 N INTERNATIONAL BLVD	L: 0 B: 0
PIONEER HI-BRED INT'L INC DU PONT ATTN: SHANNON CHIOVARI PO BOX 1039 WILMINGTON DE 19899	A0800-00-000-1030-10 ADAMS TRACT S 441' - FT 1030 13. 36 AC GROSS 12.08 AC NET 0	L: 391392 B: 1239172
SMITH P ROWAN JR TRUST 17336 W LITTLE YORK RD HOUSTON TX 77084	A0800-00-000-1036-00 ADAMS TRACT E551.26'-W601.26'-N7 11.18' FT 1036 9.03AC NET 0	L: 243810 B: 0
SAENZ ERNESTO R & ELENA Z 3223 E PIKE BLVD WESLACO TX 78599	A0800-00-000-1037-11 ADAMS TRACT E345.5'-S367.6' FT 1 037 2.92AC GR 2.59AC NET 3223 E PIKE BLVD	L: 87646 B: 15236
ARIAS RUBEN & ROSALINDA 991 FOOTHILL RD HOLLISTER CA 95023	A0800-00-000-1044-00 ADAMS TRACT W99'-E924'-S660' FT 1044 1.50AC GR 1.45AC NET 3401 E PIKE BLVD	L: 56783 B: 56553
ALVARADO AURORA CARDOZA 305 LAUREL TRAIL DR TERRELL TX 75160	A0800-00-000-1044-02 ADAMS TRACT E 330'-S 660' FT 104 4 EXC E200'-S326.5'& N10'-S30'-W 3611 E PIKE BLVD	L: 90102 B: 95886
GONZALEZ DAVID E 3421 E PIKE BLVD WESLACO TX 78599	A0800-00-000-1044-03 ADAMS TRACT W132'-E693'-S660' FT 1044 2AC GR 1.94AC NET 3421 E PIKE BLVD	L: 75972 B: 101732
ESCAMILLA AMBROSIO & 3431 E PIKE BLVD WESLACO TX 78599	A0800-00-000-1044-04 ADAMS TRACT W132'-E561'-S660' FT 1044 2AC GR 1.94AC NET 3713 E PIKE BLVD	L: 75972 B: 151240
CANTU DANIEL ET UX 3549 E PIKE BLVD WESLACO TX 78599	A0800-00-000-1044-06 ADAMS TRACT W99'-E429'-S660' FT 1044 EXC N10'-S30'-W99'-E429' 1. 3549	L: 56000 B: 76959

City of Weslaco Code Enforcement Dept.

JUL 17, 2018

VALLES MARTHA 3535 E PIKE BLVD WESLACO TX 78599	A0800-00-000-1044-07 ADAMS TRACT E200'-S326.5' FT 104 4 1.50AC GR 1.41AC NET 3535	L: 55217 B: 83269
MARTINEZ ANTONIO JR 7245 DUNNS POINT DR CORPUS CHRISTI TX 78414	A0800-00-000-1045-00 ADAMS TRACT W319'-S660' FT 1045 4.83 AC NET 3641 E PIKE BLVD	L: 10314 B: 43033
ALMAGUER CESAREO E & CELIA PO BOX 321 WESLACO TX 78599	D2040-00-000-0001-00 DEISY LOT 1 3405 E PIKE BLVD	L: 43659 B: 117205
NATIONWIDE DG WESLACO INC 100 N LA SALLE ST STE 1111 CHICAGO IL 60602	D6112-00-000-0001-00 DOLLAR GENERAL (SWL) LOT 1 1015	L: 215073 B: 420957
LA ESTANCIA APARTMENTS ATTN: ACCOUNTING DEPARTMENT 175 POWDER FOREST DRIVE WEATOGUE CT 6089	E7250-00-000-0001-00 ESTANCIA DEL VALLE LOT 1 3601 E MILE 8 NORTH	L: 378661 B: 6330163

ORDINANCE NO. 2018-23

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 320 AND AMENDING THE ZONING MAP OF THE CITY OF WESLACO TO CHANGE THE ZONING OF 720 INTERNATIONAL BLVD. ALSO BEING THE S.E.C. OF FM 1015 and Mile 8 North, WEST AND ADAMS SUBDIVISION, TRACT 1030, WESLACO, HIDALGO COUNTY, TEXAS, FROM R-1 ONE FAMILY DWELLING TO R-2 DUPLEX AND APARTMENTS 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 Apartments District being 720 International Blvd. also being S.E.C. FM 1015 and Mile 8 North, West and Adams Subdivision, Tract 1030, 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 7th day of August, 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1885
From:		
Subject: Approval of the renewal of the Election Services Contract with the Hidalgo County Elections Department to conduct the Joint City of Weslaco and Weslaco Independent School District General Election of November 6, 2018 pursuant to Texas Election Code Chapter 271, and authorize the Mayor to execute any related documents including this contract and any interlocal agreement with the Weslaco Independent School District related to this election. (Staffed by Office of the City Secretary.)		
Background: This allows the Hidalgo County Elections Department to manage the polling locations for the General election during early voting and election day, providing equipment and workers. Voters may cast their ballot from any polling location within Hidalgo County during the early voting period and on election day. The local ballot includes City Commissioners Districts 1 and 4. A separate instrument, an interlocal with the School District, memorializes they too have places on the ballot (Trustees 4, 5, 6 and 7) and agree to cost share.		
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):		
Elizabeth Walker Mike Perez		Created/Initiated Final Approval
City Manager Comments: Approve.		
Staff Recommendation: Updated agreement expected on Monday from the Hidalgo County Elections Department. Staff recommends approval.		
Attachments, if any: 2018 City of Weslaco Contract, 2018 City of Weslaco Estimate, 2018 revised WISD COW INTERLOCAL ELECTION AGREEMENT 180817av		
Responsibilities upon Approval:		

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 an election to be held on **NOVEMBER 06, 2018**.

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 06, 2018** 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 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 Sections 271.003 (a) (b) the location of a common polling place may be used in a joint election, where the voters of a particular precinct or political subdivision may be served in a joint election by common polling places located outside the boundary of the 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.

WHEREAS, 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 06, 2018**, 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, prepare, program 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 Countywide Election Day substations, 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 program 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 (preparation 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;

- (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 the general overall supervision of the Election and provide the advisory services in connection with the decisions to be made and the actions to be taken by the ENTITY;
- (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 returned to the ENTITY 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 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 General Election and pay the 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) Prepare and submit to the Secretary of State the Precinct by Precinct reports;
- (F) 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; (2) the authority with whom documents are filed under Title 15; or (3) the authority to serve as custodian of voted ballots or other election records. 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 returned to the ENTITY for the remainder of the twenty two month preservation period.
- (G) Reimburse the COUNTY for any and all costs associated with recounts and/or election contests associated with the election;
- (H) 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.
- (I) 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.

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 insuring 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.

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 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;
- 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 3rd 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
PO Box 659
Edinburg, Texas 78540

David Suarez
Mayor
255 South Kansas Avenue
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 _____, 2018

APPROVAL COUNTY OF HIDALGO:

CITY OF WESLACO
ENTITY

BY: _____

RAMON GARCIA
COUNTY JUDGE

BY: _____

PRINT: DAVID SAUREZ
TITLE: MAYOR

ATTEST:

ATTEST:

BY: _____

ARTURO GUAJARDO, JR.
COUNTY CLERK

BY: _____

PRINT: _____

TITLE: _____

ELECTIONS ADMINISTRATOR

BY: _____

YVONNE RAMÓN

APPROVED AS TO LEGAL FORM:

OFFICE OF CRIMINAL DISTRICT ATTORNEY
RICARDO RODRIGUEZ, JR.

BY: _____

NAME

Title



2018 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 City Commission District 1 & 4	DATE: November 6, 2018
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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	8	\$80.00
F	Election Media per Polling Location(s)	\$100.00	3	\$300.00
G	Verity Controller(s)	\$186.00	3	\$558.00
G	Touch Voting Machine(s)	\$186.00	26	\$4,836.00
G	Touch Access Voting Machine(s)	\$210.00	3	\$630.00
H	Delivery/ Pick-up Fee (includes Mileage)	\$850.00	1	\$850.00

Total iVotronic Coding Charges \$7,729.00

6.02	Electronic Poll Book (VoteSafe)	Price	Quantity	Total
A	Voter Registration Database Access (Per Day)	\$100.00	13	\$1,300.00
B	EV/ ED Laptop Rental (includes Bar Code Scanner/ Brother Printer)	\$150.00	3	\$450.00
C	Printer Labels (7,075 per vote)	\$0.03	14150	\$424.50
D	Username/Password - Per Polling Location	\$20.00	3	\$60.00

Total Electronic Poll Book Charges \$2,234.50

6.03	Supplies	Price	Quantity	Total
	Early Voting Combination Forms	\$0.55	150	\$82.50
	Election Day Combination Forms	\$0.55	150	\$82.50
	Election Judge Kit for Early Voting	\$35.00	1	\$35.00
	Election Judge Kit for Election Day	\$35.00	2	\$70.00
	Verity Access Thermal Code paper (per vote)	\$0.10	7075	\$707.50
	I VOTED stickers (per vote)	\$0.01	7075	\$70.75
	Polling Location Map(s)	\$17.00	3	\$51.00
	100 Sample ballots provided. Additional Copies of Sample Ballots @ \$0.20 each.	\$0.20	400	\$80.00

Total Supplies Charges \$1,179.25

6.04	Mail & Ballot Service	Price	Quantity	Total
	Mail-in-Ballot Applications	\$0.25	300	\$75.00
	Paper Ballots for Mail-in-Ballots and Provisionals	\$0.40	500	\$200.00
	Mail-in-Ballots Kit(s) per request	\$2.00	300	\$600.00
	Postage Mail-in-Ballots (per request)	\$0.61	300	\$183.00
	Correspondence Postage	\$0.49	2	\$0.98

Total Mail & Ballot Service Charges \$1,058.98

6.05	Advertisements/Notices	Price	Quantity	Total
	The Monitor newspaper	\$1,800.00	1	\$1,800.00
	Local newspaper		0	\$0.00

Total Advertisement/Notice Charges \$1,800.00

6.07	*Payroll for Training and Election Poll Workers	Price	Total
	Payroll for Early Voting Employees	\$26,049.50	\$13,024.75
	Payroll for Election Day Employees	\$3,646.00	\$1,823.00

Total Payroll Charges \$14,847.75

6.08	Payroll for Ballot Board	Price	Quantity	Total
	Ballot Board	\$550.00	1	\$550.00

Total Ballot Board Charges \$550.00

6.10	Insurance	Hourly rate	Hours wk	%	Total
	Liability insurance for Early Voting Supervisors (1)	\$ 14.00	178.25	0.0021	\$5.24
	(hourly rate X hrs worked X .0021)				
	Liability insurance for Early Voting Clerks (11)	\$ 12.00	1960.75	0.0021	\$49.41
	(hourly rate X hrs worked X .0021)				
	Liability insurance for Election Day Presiding Judges (1)	\$ 14.00	31	0.0021	\$0.91
	(hourly rate X hrs worked X .0021)				
	Liability insurance for Election Day Alternate/Clerks (17)	\$ 12.00	263.5	0.0021	\$6.64
	(hourly rate X hrs worked X .0021)				

Total Insurance Charges \$62.20

6.11	Cell Phones	Price	Quantity	Total
	Verizon Wireless phone (subject to change with out notice)	\$45.00	3	\$135.00

Total Cell Phone Charges \$135.00

6.12	Subtotal	\$29,596.68
	Administrative Fees (10%)	\$2,959.67
	*Shared Cost with County	ESTIMATED GRAND TOTAL \$32,556.35

§§§

INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF WESLACO AND THE WESLACO INDEPENDENT SCHOOL DISTRICT FOR JOINT ELECTION

WITNESSETH:

1. The City and District agree to hold joint elections to be conducted by the Hidalgo County Election Administrator and pay their respective expenses in accordance with Texas Education Code 271 and as mandated by Texas Education Code §11.058, for the election of the City of Weslaco elected offices of City Commissioner District No. 1 and City Commissioner District No.

- 4 and Weslaco Independent School District elected offices of Board of Trustee Place No. 4, Board of Trustee Place No. 5, Board of Trustee Place No. 6 and Board of Trustee Place No. 7.
2. In accordance with Texas Education Code §11.058 the voters of the joint election shall be served by common polling places and a common ballot consistent with Texas Election Code 271.003(b); Early Voting Judges and Election Day Judges will be appointed by the Hidalgo County Election Administrator just as Early Voting and Polling Locations and Hours will be identified and subject to change by the Hidalgo County Election Administrator for affected precincts. At minimum, place(s) of early voting shall remain open between the hours of 8:00 o'clock a.m. to 5:00 o'clock p.m. on each day for early voting with the exception of two weekdays for at least twelve hours. Direct Recording Electronic Voting Machines shall be used at all polling places.
 3. The mailing address to which ballot applications and ballots voted by mail shall be sent to Yvonne Ramon, Hidalgo County Elections Administrator, P.O. Box 659, 101 S. Tenth Avenue, Edinburg, Texas 78540. Early voting, by mail, shall be by paper ballots and shall be canvassed by the Early Voting Ballot Board, which shall convene at the time set by the Presiding Judge of the Early Voting Ballot Board.
 4. For the District, the winner will be the candidate that receives the highest total of votes in each respective place. For the City, in the event that no candidate for Commissioner for a particular District receives a majority of the votes cast for, or in the event of a tie vote for a Commissioner of any particular place, there shall be a Run-off Election not earlier than 20th or later than the 45th day after the date the final canvass of the main election is completed. The election will be conducted with paper ballots if DRE machines are not available. In such event, the same polling places as used for the General Election are hereby designated for such Run-off Election, and the same Presiding Judges and election officials are hereby designated for such Run-off Election, which Run-off Election shall comply with all the rules of the Texas Election Code and the Charter of the City of Weslaco. Notice of such election shall be given in accordance with the Texas Election Code. The candidate for each respective office receiving the majority of votes shall be declared elected. In the event of a tie, the winner of such election shall be determined by a drawing by lot.
 5. **Conflict of Applicable Law:** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between and provision of their Agreement and any present or future law, ordinance, or administrative, executive or judicial regulation, order or decree, or amendment hereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provision of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
 6. **No Waiver:** No waiver by any party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
 7. **Entire Agreement:** This Agreement contains the entire contract between the parties hereto and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by the District and City, and not otherwise.
 8. **TEXAS LAW TO APPLY.** THIS AGREEMENT 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. THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.

9. **Notice.** Except as may be otherwise specifically provided in this Agreement, 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 (H) 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:

If to City: City of Weslaco
C/O City Manager
255 S. Kansas Avenue
Weslaco, Texas 78596

If to District: Weslaco Independent School District
C/O Superintendent
P.O. Box 266
Weslaco, Texas 78599

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

10. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
11. **Successors.** 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.
12. **Assignment.** This Agreement shall not be assignable.
13. **Headings.** The headings and captions contained in this Agreement are solely for convenience reference and shall not be deemed to affect the meaning or interpretation of any provision of paragraph hereof.
14. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and as often as may be appropriate.
15. **Authority to Execute.** The execution and performance of this Agreement by City and District have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of City and District in accordance with its terms.
16. **Governmental Purpose.** Each party hereto is entering into this agreement for the purpose of

providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.

17. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. §271 .903.

WITNESS THE HANDS OF THE PARTIES effective as of the ____ day of October 2018, first written above.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

WITNESS THE HANDS OF THE PARTIES effective as of the ____ day of October 2018, first written above.

WESLACO INDEPENDENT SCHOOL DISTRICT

Erasmo Lopez
SCHOOL BOARD PRESIDENT

ATTEST:

Isidoro Nieto, **SCHOOL BOARD SECRETARY**

APPROVED AS TO FORM:

Ivan Perez, **SCHOOL BOARD ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1888	
From:			
Subject: Approval of the renewal of the Lease Agreement with the Weslaco Youth Football League for the use of Isaac Rodriguez multi-purpose fields and Harlon Block Sports Complex practice area, for a term of four months (September 1, 2018-December 31, 2018) and authorize the Mayor to execute any related documents. (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			
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):			
David Arce Mike Perez		Created/Initiated Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Approve.			
Attachments, if any: 2018 Weslaco Youth Football League Fall Lease, WESLACO FOOTBALL FINANCIALS, City of Weslaco Insurance Certificate 08.2018, WYFL Exhibit A-B			
Responsibilities upon Approval: Execute and notify requester.			

STATE OF TEXAS *

COUNTY OF HIDALGO * **LEASE AGREEMENT**

CITY OF WESLACO *

On this ____ day of ____, 2018 THE CITY OF WESLACO, a home rule Municipal Corporation located in Hidalgo County, Texas hereinafter referred to as “CITY” and the WESLACO YOUTH FOOTBALL LEAGUE hereinafter referred to as “LEAGUE” enter into this agreement as follows:

1. The CITY leases to the “LEAGUE” certain real property and improvements physically located in the Isaac Rodriguez Park Multi-Purpose Field, described as the Minor Practice Field, Parking Lot and Concession Stand as described in Exhibit “A” and practice fields at Harlon Block Sports Complex as described in Exhibit “B”, hereinafter referred to as the lease premises.
2. The Term of this lease shall be for four (4) months beginning September 1, 2018 and ending December 31, 2018, hereinafter referred to as the lease term.

In consideration of the lease of the property and improvements described in Exhibits “A” and “B”, the “CITY” and “LEAGUE” agree as follows:

1. The “LEAGUE” will not construct any permanent buildings or improvements on the lease premises.
2. The “LEAGUE” will not sublet the leased property or assign this lease to any other party without the written consent of the “CITY.”
3. The “LEAGUE” agrees and understands that lease premises will be used exclusively for “LEAGUE” activities.
4. The “LEAGUE” will hold the “CITY” harmless for any type of injury or harm sustained by any person involved in “LEAGUE” activity on the lease premises.
5. The “LEAGUE” will maintain liability insurance in a sufficient amount to protect the “CITY’S” interest and said insurance shall name the “CITY” as an additional insured with the requirement that said insurance provider shall provide the “CITY” notice of any cancellation of said insurance policy.
6. The “LEAGUE” will be entitled to possession of the lease premises immediately upon execution of this agreement.

7. The "LEAGUE" will provide a schedule of "LEAGUE" activities to the City at least one (1) week prior to start of such activities.
8. The "LEAGUE" is responsible for expenses for any "LEAGUE" activities including but not limited to out of town games, play-offs, or tournaments. "CITY" is not responsible for any expenses or maintenance of the "LEAGUE".
9. The "LEAGUE" is obligated to assist the city in providing a clean complex for participants and spectators. If "LEAGUE" does not maintain a clean complex "CITY" staff and equipment will clean and maintain the lease premises and "LEAGUE" is obligated to reimburse "CITY" for costs of such services at that "CITY" employees rate of pay plus any fringe benefits.
10. There shall be no parking of automobiles or other vehicles in any area other than areas designated for such purpose by "CITY". The "LEAGUE" is responsible for ensuring there is **NO PARKING ON GRASS ISLANDS OR ANY OTHER GRASS AREAS** of the lease premises.
11. The "LEAGUE" will provide the "CITY" and accounting of all monies collected in registration fees, concession stand revenues and expenses incurred in operating its activities. This accounting must be prepared by a certified public accountant and must be prepared in accordance with accepted accounting principles. The accounting will be due on or before December 31, 2018. The "CITY" may at any time demand such accounting and failure to do so will result in an automatic termination of this agreement.
12. The "LEAGUE" shall be responsible for the registration of individual participants and for the accounting of registration fees for each participant and will hold the "CITY" harmless from any claims arising out of any improprieties or acts of embezzlement, fraud or theft of "LEAGUE" funds.
13. The "LEAGUE" will be responsible for any and all expenses incurred in obtaining officials necessary for conducting "LEAGUE" activities.
14. The "LEAGUE" is responsible for scheduling all games and providing adult supervision at all scheduled football games and practices and will hold the "CITY" harmless for any claims arising out of inappropriate acts by any of the "LEAGUE'S" employees, volunteers or contractors.
15. The "CITY" shall have the right to decide when the football fields are unplayable due to current or anticipated weather conditions and the "LEAGUE" must abide by any "CITY" decisions concerning cancellation or rescheduling of "LEAGUE" activities.

16. The "LEAGUE" will provide it's By – Laws, Organization structure, officers, and appropriate contact phone numbers to the "CITY" for the purpose of addressing or directing public inquires to the proper authorities regarding "LEAGUE" activities.
17. The "LEAGUE" shall report any necessary repairs or potential hazards to the Parks and Recreation Department immediately. However, the reporting of these hazards does not in way, shape or form make the "CITY" liable for any injuries or damages resulting from said hazards.
18. The "CITY" will maintain the football fields, including mowing and marking. Maintenance scheduling will be determined by "CITY" upon receipt of written practice and league games schedules.
19. The "CITY" is under no obligation and undertakes no responsibility to obtain sponsors for "LEAGUE" activities.
20. "CITY" employees are NOT be allowed to participate in "LEAGUE" activities as officers, board members, bookkeepers, or in any other official capacity.
21. The "LEAGUE" will remove all sponsor signs on or before December 31, 2017.
20. The "LEAGUE" affirms that the person signing this agreement on behalf of the "LEAGUE" is authorized to execute this agreement with the "CITY".
21. The person signing on behalf of the "LEAGUE" will receive one (1) "CITY" issued key for the concession stands and lights and this key may not be duplicated by the "LEAGUE".
22. The "CITY" may cancel this agreement without cause by providing thirty "30" days written notice to the "LEAGUE" by personal delivery to the person signing this agreement of behalf of "LEAGUE".

In WITNESS WHEREOF, the undersigned hereby execute this lease agreement on the ____ day of _____ 2017.

ATTEST:

Elizabeth Walker, City Secretary

CITY OF WESLACO

David Suarez, Mayor

APPROVED AS TO FORM:

CITY ATTORNEY _____
JUAN E. GONZALEZ

WESLACO YOUTH FOOTBALL LEAGUE

BY: _____
Albert Ortiz

WESLACO YOUTH FOOTBALL LEAGUE
STATEMENT OF FINANCIAL POSITION
December 31, 2017

ASSETS

Current Assets

CASH - INTERNATIONAL BANK	\$	3,566.75
MONEY BOX		<u>180.00</u>

Total Current Assets	\$	3,746.75
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Fixed Assets

Total Assets	\$	<u><u>3,746.75</u></u>
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See Accountant's Compilation Report

WESLACO YOUTH FOOTBALL LEAGUE
STATEMENT OF FINANCIAL POSITION
December 31, 2017

LIABILITIES AND EQUITY

Current Liabilities
Long Term Liabilities
Net Assets

UNRESTRICTED	2,561.69
Current Income (Loss)	<u>1,185.06</u>

Total Net Assets	<u>3,746.75</u>
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Total Liabilities & Net Assets	\$ <u><u>3,746.75</u></u>
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WESLACO YOUTH FOOTBALL LEAGUE
STATEMENT OF ACTIVITIES & CHANGES IN NET ASSETS
For the Period Ended December 31, 2017

	12 Months Ended Dec. 31, 2017	Pct
Revenue		
SUMMER FLAG FOOTBALL	\$ 14,420.00	22.95
CONCESSION INCOME	15,983.51	25.43
FALL FOOTBALL	20,285.00	32.28
UNIFORMS	3,524.00	5.61
FUNDRAISER	4,793.95	7.63
OTHER	7,110.15	11.31
HARDSHIP	<u>(3,275.00)</u>	<u>(5.21)</u>
Total Revenue	62,841.61	100.00
Operating Expenses		
ADVERTISING	1,990.50	3.17
BANK CHARGES	10.91	0.02
BOARD MEETINGS	298.22	0.47
CHEER EXPENSE	3,402.35	5.41
CONCESSION STAND	7,372.21	11.73
COST OF FUNDRAISERS	3,600.00	5.73
COST OF OPERATIONS	3,469.02	5.52
DRAFT MEETINGS	136.77	0.22
FLAGS	790.76	1.26
FOOTBALL EXPENSE	11,146.41	17.74
INSURANCE	2,475.00	3.94
REFEREES/CHAIN CREW	14,535.00	23.13
REGISTRATION LOCATIONS	47.71	0.08
SUPPLIES	61.09	0.10
TAXES AND LICENSES	150.00	0.24
TROPHIES AND MEDALS	3,642.60	5.80
UNIFORMS	<u>8,528.00</u>	<u>13.57</u>
Total Expenses	<u>61,656.55</u>	<u>98.11</u>
Changes in Net Assets from Operations	<u>1,185.06</u>	<u>1.89</u>
Net Assets at end of period	\$ <u><u>1,185.06</u></u>	<u><u>1.89</u></u>



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Terry L. Green & Associates 3100 Five Forks Trickum Rd Suite 101 Lilburn, GA 30047	CONTACT NAME: PHONE (A/C, No, Ext): 1-800-550-5029 E-MAIL ADDRESS: info@esportsinsurance.com		FAX (A/C, No): 770-978-2780
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Weslaco Youth Football League P.O. Box 1261 Weslaco, Texas 78599	INSURER A: Houston Casualty Company		# 42374
	INSURER B: Berkley Life & Health Ins Co		# 64890
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Participant ☒ Sexual Abuse GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		18/7007391-Y20258	8/1/2018 12:01 AM	8/1/2019 12:01 AM	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 PARTICIPANTS \$ 1,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			18/7007391-Y20258	8/1/2018 12:01 AM	8/1/2019 12:01 AM	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☐ N / A					PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Participant Accident Coverage Excess Coverage			PAI L014011115301	8/1/2018 12:01 AM	8/1/2019 12:01 AM	Accident Medical Expense Benefit \$100,000 Accident Medical Expense Deductible \$250

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Coverage is provided under this policy for sponsored and supervised activities of the named insured for which a premium has been paid.

Activities Covered: Youth Football (Tackle) & Cheerleading & Cheer

Certificate Holder Named as Additional Insured

CERTIFICATE HOLDER

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

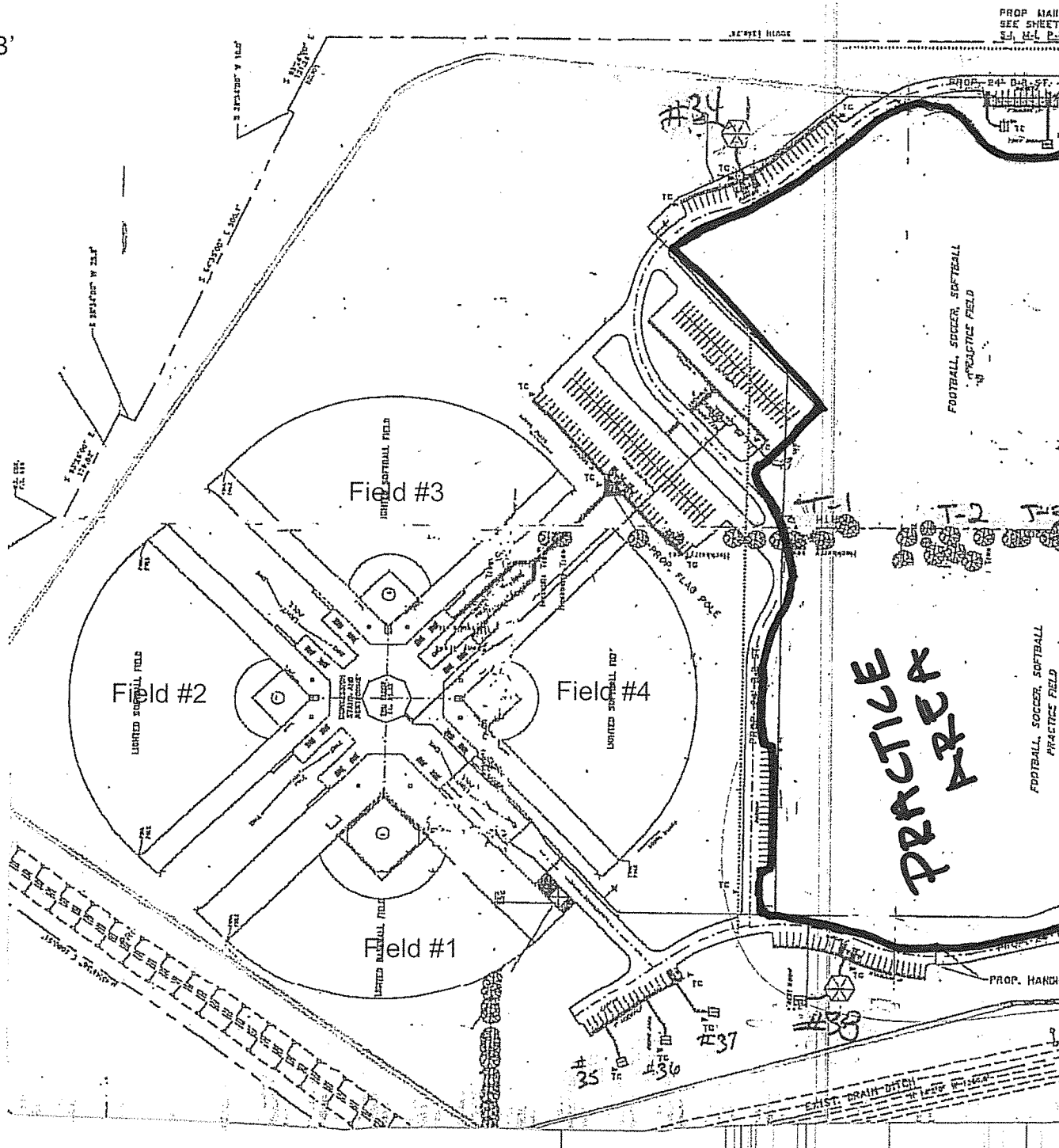
AUTHORIZED REPRESENTATIVE

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Harlon Block Sports Complex

1020 W. 18th St.

Exhibit 'B'



8th St.

Exhibit 'A'

Not Approved parking

Hospital
Parking

Playground

Picnic
Area

Playgrou

Rest
Rooms

Minor
Field

Concession
Stand

Multi-Purpose Field

Wesl
Traile
Park

Service
Center

Swimming
Pool

Parking Lot
Approved Parking

ONE WAY

6th St.

Rodriguez Park
1200 E. 6th St.



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1889	
From:			
Subject: Approval of the renewal of the lease agreement with Mid Valley Youth Soccer League for use of Pablo G. Pena City Park soccer fields and authorize the Mayor to execute any related documents. (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			
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):			
David Arce Mike Perez		Created/Initiated Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Approve.			
Attachments, if any: 2018 FALL LEASE AGREEMENT CITY PROPERTY-Mid Valley Youth Soccer League, 2018 INSURANCE, MVYSC 2017 FINANCIALS, Soccer Exhibit A			
Responsibilities upon Approval: Execute and notify requester.			

STATE OF TEXAS

*

*

COUNTY OF HIDALGO

*

LEASE AGREEMENT OF CITY

*

PROPERTY

CITY OF WESLACO

*

On this ____ day of _____, 2018, THE CITY OF WESLACO, a municipal corporation located in Hidalgo County, Texas, hereinafter called "CITY" and the Mid Valley Youth Soccer League, hereinafter called "CLUB" enter into this Lease Agreement for the lease of city property under the following terms:

1. The City leases to the CLUB certain real property physically located at The Weslaco City Parks Soccer Fields located in the Eastside of the park along Airport Dr.
2. The term of this lease shall be for 4 months beginning September 1, 2018, and ending December 31, 2018. Games will be Saturday morning from 8am – 1pm

In consideration of the lease of the CITY property the "CLUB" agrees as follows:

1. That the CLUB will not construct any permanent buildings or improvements on the real property subject of this lease agreement.
2. That the CLUB will not sublet the leased property or sign this lease to any other party without the written consent of the CITY OF WESLACO.
3. The CLUB agrees and understands that the real property, the subject of this lease agreement, will be used exclusively for soccer games.
4. The CLUB will hold the CITY OF WESLACO harmless for any injuries that are sustained by any person either playing or watching the playing of soccer on this real property.
5. That the CLUB will carry liability insurance and said insurance will include the CITY OF WESLACO in its policy.
6. That the CLUB will be entitled to possession of the leased property immediately upon execution of this lease agreement.
7. That the person signing on behalf of the team is authorized to execute this lease agreement with the CITY OF WESLACO.
8. The "CLUB" shall endeavor to assist the CITY in providing a safe and clean

complex for participant and spectator.

9. One (1) vehicle shall be allowed to be parked next to concession stand for the purpose of carrying equipment & supplies and security all Other automobiles or other vehicles will park in areas designated for such purpose by City to provide adequate parking.
10. The "CLUB" will provide the City an accounting of all monies collected in registration fees and all concession stand revenues and all the expenses incurred. Any time the City requests such accounting.
11. The "CLUB" is responsible for scheduling soccer games with The Mid Valley Youth Soccer Association and providing adult supervision at all scheduled soccer activities.
12. The "CITY" shall have the right to decide when the soccer field is unplayable due to current or anticipated weather conditions.
13. The 'CLUB" will file with the Parks and Recreation Department, officers and appropriate contact phone numbers for the purpose of directing public inquires to the proper authorities regarding this program.
14. The 'CLUB" shall report any repairs or potential hazards to the Parks and Recreation Department
15. City will maintain the Soccer fields; including mowing and marking when possible & maintenance scheduling will be determined by City upon advanced receipt of written practice and CLUB game schedules.
16. City undertakes no Responsibility to obtain sponsors for "CLUB" activities.
17. City employees will not be allowed to participate in Association activities as Officers.
18. The "CLUB" will provide the city an accounting of all monies collected in registration fees and all concession stand revenues and all expenses incurred. The accounting will be due on or before December 31, 2018.

IN WITNESS WHEREOF, the undersigned hereby execute this lease agreement as of the day and year first above written.

CITY OF WESLACO

DAVID SUAREZ, Mayor

ATTEST:

ELIZABETH M. WALKER, City Secretary

MID VALLEY YOUTH SOCCER LEAGUE

By:_____
ROBERT GONZALEZ

ATTEST:

By:_____
City Attorney



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/18/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Office of America, Inc. 1855 West State Road 434 Longwood FL 32750	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : United States Fire Insurance Company	21113
	INSURER B : International Insurance Company of Hannover SE	
	INSURER C : Lloyd's	
	INSURER D : Everest National Insurance Company	10120
	INSURER E :	
	INSURER F :	

INSURED USCLUBS-01
National Association of Competitive Soccer Clubs
dba US Club Soccer
192 East Bay Street
Suite 301
Charleston SC 29401

COVERAGES**CERTIFICATE NUMBER:** 1698961081**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
D	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR ☒ Participant LL GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☒ OTHER: Sanctioned Event	Y		SI8GL00839181	1/1/2018	1/1/2019	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$3,000,000 PRODUCTS - COMP/OP AGG \$3,000,000 Abuse & Molestation \$1,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED \$ RETENTION \$	Y		18EX1115	1/1/2018	1/1/2019	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A C	Accident Medical Full Excess Excess Liability	Y		US855673 17EX1318	1/1/2018 1/1/2018	1/1/2019 1/1/2019	Medical Maximum 100,000 Deductible 500 Excess-Occ/Agg 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is named as an Additional Insured under the General Liability and Excess Liability policies when required by written contract but only with respect to the operations of the Named Insured. This Certificate is issued on behalf of all valid YOUTH US CLUB SOCCER registered and approved players and staff participating with:
Mid Valley Youth Soccer Club, club id# C 7107

CERTIFICATE HOLDER**CANCELLATION**

City of Weslaco 300 Airport Ave. Weslaco TX 78596	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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	Mid Valley Youth Soccer Club			
	Balance Sheet for 2017			
	Beginnig of Year Balance	\$ 319.89		
DEPOSITS	Total Deposits for January	\$ 4,409.78		
	Total Deposits for February	\$ 100.00		
	Total Deposits for March	\$ 1,300.00		
	Total Deposits for April	\$ 1,371.42		
	Total Deposits for May	\$ 525.00		
	Total Deposits for June	\$ 50.00		
	Total Deposits for July	\$ -		
	Total Deposits for August	\$ 7,445.00		
	Total Deposits for September	\$ 7,855.00		
	Total Deposits for October	\$ 407.19		
	Total Deposits for November	\$ 1,108.00		
	Total Deposits for December	\$ 200.00		
			\$25,091.28	
EXPENSES:				
	Total Expenses for January	\$ 821.65		
	Total Expenses for February	\$ 3,216.94		
	Total Expenses for March	\$ 1,371.91		
	Total Expenses for April	\$ 1,745.91		
	Total Expenses for May	\$ 843.00		
	Total Expenses for June	\$ 66.97		
	Total Expenses for July	\$ 18.17		
	Total Expenses for August	\$ 1,328.88		
	Total Expenses for September	\$ 9,696.95		
	Total Expenses for October	\$ 3,078.14		
	Total Expenses for November	\$ 2,080.38		
	Total Expenses for December	\$ 806.94		
			\$ 25,075.84	
	Net Income for Year 2015			\$15.44

Income Statement				
January 31, 2017				
Income:				
	Balance as of 12/31/16			319.89
	Fees:	Deposits 1/18/17	292.69	
		Deposits 1/18/17	270.00	
		Deposits 1/18/17	100.00	
		Deposits 1/19/17	48.62	
		Deposits 1/19/17	40.00	
		Deposits 1/19/17	150.00	
		Deposits 1/20/17	220.00	
		Deposits 1/20/17	150.00	
		Deposits 1/25/17	243.11	
		Deposits 1/25/17	350.00	
		Deposits 1/25/17	350.00	
		Deposits 1/26/17	140.00	
		Deposits 1/26/17	200.00	
		Deposits 1/27/17	145.87	
		Deposits 1/27/17	100.00	
		Deposits 1/27/17	665.00	
		Deposits 1/27/17	600.00	
		Deposits 1/27/17	150.00	
		Deposits 1/30/17	194.49	
		Total Deposits for Month	4,409.78	
Total Income:				\$ 4,729.67
Expenses:	Credit Card Expenses:			
	Reason:	Who:		
1/3/2017		ATM	80.00	
1/4/2017		Capital One	60.00	
1/5/2017		T-Mobile	66.15	
1/17/2017		R and R Shortage	49.00	
	Credit Card Total		255.15	
	Checks Expenses:			
	Check #	Who:		
	1615	A U Strickland Signs	553.50	
		Service Charge	10.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
	Total Checks		566.50	
Total Expenses:				\$ 821.65
Total Income:	Ending balance of 1/31/17			\$ 3,908.02

	Income Statement			
	February 28, 2017			
Income:				
		Balance of 1/31/17		\$ 3,908.02
		depoit 2/10/17	50.00	
		depoit 2/10/17	50.00	
		Total Deposits for Month	100.00	
Total Income:				\$ 4,008.02
Expenses:	Credit Cards Expneses:			
	Reason:	Who:	-	
2/3/2017		T-Mobile	50.00	
2/3/2017		T-Mobile	66.15	
2/3/2017		Academy-Weslaco	136.17	
2/8/2017		Salazar Burger	40.13	
2/10/2017		Score	44.53	
2/13/2017		Score	2,476.50	
2/21/2017		ATM	200.00	
2/21/2017		R and R Storage	49.00	
2/21/2017		Score	92.92	
2/23/2017		Score	19.98	
2/27/2017		Score	28.56	
	Total Credit Card		3,203.94	
	Checks Expenses:			
	Check #	Who:		
		Service Charge	10.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
	Total Checks		13.00	
Total Expenses:				\$ 3,216.94
Total Income:	Ending Balance as off 2/28/17			\$ 791.08

Income Statement				
March 31, 2017				
Income:				
		Balance of 2/28/17		\$ 791.08
		deposit 3/17/20017	1,000.00	
		deposit 3/22/20017	40.00	
		deposit 3/22/20017	30.00	
		deposit 3/23/20017	190.00	
		Depsoit 3/30/17	40.00	
		Total Deposits for Month	1,300.00	
Total Income:				\$ 2,091.08
Expenses:	Credit Card Expenses:			
	Reason:	Who:		
3/2/2017		Score	138.49	
3/3/2017		T-Mobile	66.15	
3/15/2017		R And R	49.00	
3/17/2017		Home Depot	9.20	
3/20/2017		Walmart	52.82	
3/27/2017		ATM	60.00	
3/27/2017		Sams	135.08	
3/27/2017		Score	28.06	
3/27/2017		Score	137.63	
3/30/2017		Office Depot	84.40	
3/30/2017		Score	234.29	
3/31/2017		ATM	40.00	
3/31/2017		HEB	11.67	
3/31/2017		HEB	15.50	
3/31/2017		Great China	17.75	
3/31/2017		Score	128.87	
		Service Charge	10.00	
	Total Credit Card		1,218.91	
	Checks Expenses:			
	Check #	Who:		
	1617	Raul Torres Sponsorship	150.00	
			1.00	
		Paper Fee	2.00	
	Total Checks		153.00	
Total Expenses:				\$ 1,371.91
Total Income:	Ending Balance as of 3/31/17			\$ 719.17

Income Statement				
April 30, 2017				
Income:				
		Balance of 3/31/17		\$ 719.17
		Deposit 4/3/2017	300.00	
		Deposit 4/11/2017	280.00	
		Deposit 4/12/2017	121.42	
		Deposit 4/12/2017	330.00	
		Deposit 4/12/2017	40.00	
		Deposit 4/27/2017	280.00	
		Deposit 4/27/2017	20.00	
		Total Deposits for Month	1,371.42	
Total Income:				\$ 2,090.59
Expenses:	Credit Card Expenses:			
	Reason:	Who:		
4/3/2017		Score	28.56	
4/4/2017		Charge Back	40.00	
4/12/2017		HEB	29.12	
4/13/2017		HEB	25.00	
4/14/2017		ATM	2.00	
4/14/2017		ATM	43.00	
4/14/2017			21.48	
4/17/2017		Charge Back	165.00	
4/18/2017		ATM	60.00	
4/19/2017		R and R Storage	49.00	
4/21/2017		HEB	23.93	
4/24/2017		ATM	120.00	
4/28/2017		HEB	33.82	
	Total Credit Card Expenses		640.91	
	Checks Expenses:			
	Check #	Who:		
	1618	Church plates	70.00	
	1619	Blanca-Ref	32.00	
	1620	Martin-Ref	38.00	
	1621	Julie-Ref	58.00	
	1622	Vicky-Ref	90.00	
	1623	Jenn-Ref	45.00	
	1624	Joyce-Ref	40.00	
	1625	Tony-Ref	90.00	
	1626	Rachell-Ref	16.00	
	1627	Alexis-ref	38.00	
	1628	Church plates	60.00	
	1631	Miguel-Ref	40.00	
	1632	Blanca-Ref	56.00	
	1633	Martin-Ref	48.00	
	1634	Hugo-Ref	26.00	

	1635	Leslie-Ref	40.00	
	1636	Diana-Ref	105.00	
	1637	Miguel-Ref	40.00	
	1638	Tony-Ref	60.00	
	1640	Alexis-Ref	50.00	
	1641	Julie-Ref	50.00	
		Service charge	10.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
	Total Checks		1,105.00	
Total Expenses:				\$ 1,745.91
Total Income:	Ending Balance of 4/30/17			\$ 344.68

Income Statement				
May 31, 2017				
Income:				
		Balance as of 4/30/17		\$ 344.68
		Deposit 5/2/17	260.00	
		Deposit 5/2/17	165.00	
		Deposit 5/3/17	100.00	
		Service Fee	-	
		Balance as of 5/1/21	525.00	
Total Income:				\$ 869.68
Expenses:	Credit Cards Expenses:			
	Reason:	Who:		
			165.00	
			49.00	
	Total Credit Card:		214.00	
	Checks Expenses:			
	Check #	Who:		
	1630	Sergio-Ref	16.00	
	1639	Sergio-Ref	16.00	
	1642	Sergio-Ref	48.00	
	1643	Blanca-Ref	48.00	
	1644	Martin-Ref	40.00	
	1645	Alexis-Rf	48.00	
	1646	Hugo-Ref	30.00	
	1647	Diana-Ref	60.00	
	1648	Raul--Void	-	
	1649	Leslie-Ref	50.00	
	1650	Miguel-Ref	35.00	
	1651	Judie-Ref	50.00	
	1652	Raul-Ref	175.00	
		Bank Fee	10.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
	Total Checks		629.00	
				\$843.00
	Total Expenses:			843.00
Total Income:	Ending Balance as of 5/31/17			\$ 26.68

Income Statement				
June 30, 2017				
Income:				
		Balance as of 5/30/17		\$ 26.68
		Deposit 6/5/17	50.00	
		Deposit 6/31/17		
		Total Deposits for Month	50.00	
Total Income:				\$ 76.68
Expenses:	Credit Cards Expenses:			
	Reason:	Who:		
		Wendys	4.97	
		R and R	49.00	
	Total Credit Card:			
			53.97	
	Checks Expenses:			
	Check #	Who:		
		Bank Fee	10.00	
		Bank Fee	2.00	
		Paper Fee	1.00	
	Total Checks			
			13.00	
	Total Expenses:			\$ 66.97
Total Income:	Ending Balance as of 6/30/17			\$ 9.71

	Income Statement			
	July 31, 2017			
Income:				
		Balance of as 6/30/17		\$ 9.71
		Deposit 7/4/15		
		Deposit 7/11/15		
		Deposit 7/18/15		
		Deposit 7/25/15	-	
		Total Deposits for Month	-	
Total Income:				\$ 9.71
Expenses:	Credit Card Expenses:			
	Rreason:	Who:		
		HEB	5.17	
			10.00	
	Total Credit Card		15.17	
	Checks Expenses:			
	Check #	Who:		
		Bank Fee	1.00	
		Paper Fee	2.00	
	Total Checks		3.00	
	Total Expenses:			\$ 18.17
Total Income:	Ending Balance as of 7/31/17			\$ (8.46)

Income Statement				
August 31, 2017				
Income:				
		Balance of 7/31/17		\$ (8.46)
		depoit 8/16/17	375.00	
		depoit 8/8/17	470.00	
		deposit 8/15/17	375.00	
		deposit 8/22/17	620.00	
			555.00	
			500.00	
			215.00	
			820.00	
			190.00	
			2,775.00	
		deposit 8/30/17	550.00	
		Total Deposits for Month	7,445.00	
Total Income:				\$ 7,436.54
Expenses:	Credit Card Expenses:			
	Reason:	Who:		
		Neuhaus and Company	62.65	
		ATM	60.00	
		Neuhaus and Company	70.09	
		Whataburger	8.42	
		KFC	17.31	
		My Life Guard	23.45	
		Whataburger	8.42	
		Whataburger	50.00	
		Epic Sports	295.38	
		ATM	100.00	
		Church's Chicken	21.95	
		Brooks Sports	129.60	
		Office Depot	41.11	
		CVS	41.11	
		KFC	21.39	
		Total Credit card	950.88	
	Checks Expenses:			
	Check #	Who:	-	
	1653	Strickland Signs	365.00	
		Service Charge	10.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
		Total Checks	378.00	
Total Expenses:				\$ 1,328.88
Total Income:	Ending Balance as of 8/31/17			\$ 6,107.66

Income Statement				
September 30, 2017				
Income:				
		Balance of 8/31/17		\$ 6,107.66
		depoit 9/1/17	6,185.00	
		depoit 9/8/17	190.00	
		deposit 9/11/17	135.00	
		depoit 9/12/17	1,000.00	
		depoit 9/21/17	60.00	
		depoit 9/22/17	285.00	
			-	
		Total Deposits for Month	7,855.00	
Total Income:				\$ 13,962.66
Expenses:	Credit Card Expenses:			
	Reason:	Who:	-	
9/1/2017	Helpers Dinner	Ciros	43.38	
9/5/2017		Epic Spots	90.86	
9/5/2017		Intex Recreation Corp	124.74	
9/11/2017		Academy	192.44	
9/12/2017		Academy	194.60	
9/12/2017		Epic Spots	240.07	
9/14/2017		Chargeback	135.00	
9/18/2017		ATM	140.00	
9/18/2017		HEB	26.28	
9/18/2017		Academy	106.01	
9/18/2017		Office Depot	120.13	
9/18/2017		The Home Depot	8.12	
9/18/2017		Score	657.63	
9/20/2001		SAMs	89.67	
9/20/2017		Capital One	100.00	
9/20/2017		Credit One	109.95	
9/21/2017		ATM	400.00	
9/22/2017		ATM	500.00	
9/22/2017		Amerimark Direct	67.97	
9/25/2017		Office Depot	26.71	
9/25/2017		Academy	27.05	
9/25/2017		Credit One	63.36	
9/25/2017		Feel Good Store	64.72	
9/25/2017		Capital One	84.00	
9/27/2017		Score	5,421.49	
9/28/2017		T-Mobile	72.27	
9/29/2017		ATM	100.00	
9/29/2017		ATM	303.00	
		Total Credit card	9,509.45	

	Checks Expenses:			
	Check #	Who:		
	1654	Vanessa Rodriguez-Refund	25	
	1655	Lucas Brothers-Refund	85	
	1656	Mallany Alaniz-Refund	65	
		Service Charge	7.50	
		Paper Fee	2.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
		Total Checks	187.50	
Total Expenses:				\$ 9,696.95
Total Income:	Ending Balance as of 9/30/17			\$ 4,265.71

Income Statement				
October 30, 2017				
Income:				
		Balance of 9/30/17		\$ 4,265.71
		Deposit 10/3/157	190.00	
		Deposit 10/10/17	95.00	
		Deposit 10/17/17	122.19	
		Total Deposits for Month	407.19	
Total Income:				\$ 4,672.90
Expenses:	Credit Card Expenses:			
	Reason:	Who:		
		ATM	400.00	
		Wendys	25.44	
		Score	114.44	
		Score	56.85	
		Walmart	35.82	
		Academy	75.00	
		HEB	100.81	
		Hermes Trading	45.94	
		Whataburger	100.00	
		Pronto Insurance	60.00	
		T-Mobile	101.87	
		ATM	100.00	
		Walmart	98.96	
		R and R Storage	98.00	
		Academy	34.55	
		Score	70.97	
		Score	89.99	
		ATM	100.00	
		HEB	22.05	
		Epic Sports	119.58	
		Epic Sports	122.19	
		Score	26.65	
		Score	27.76	
		Credit One	56.43	
		Score	138.85	
		Score	91.85	
		Office Depot	41.11	
		Tejano Mart	19.50	
		Frankies	6.03	
		Total Credit card	2,380.64	
	Checks Expenses:			
	Check #	Who:		

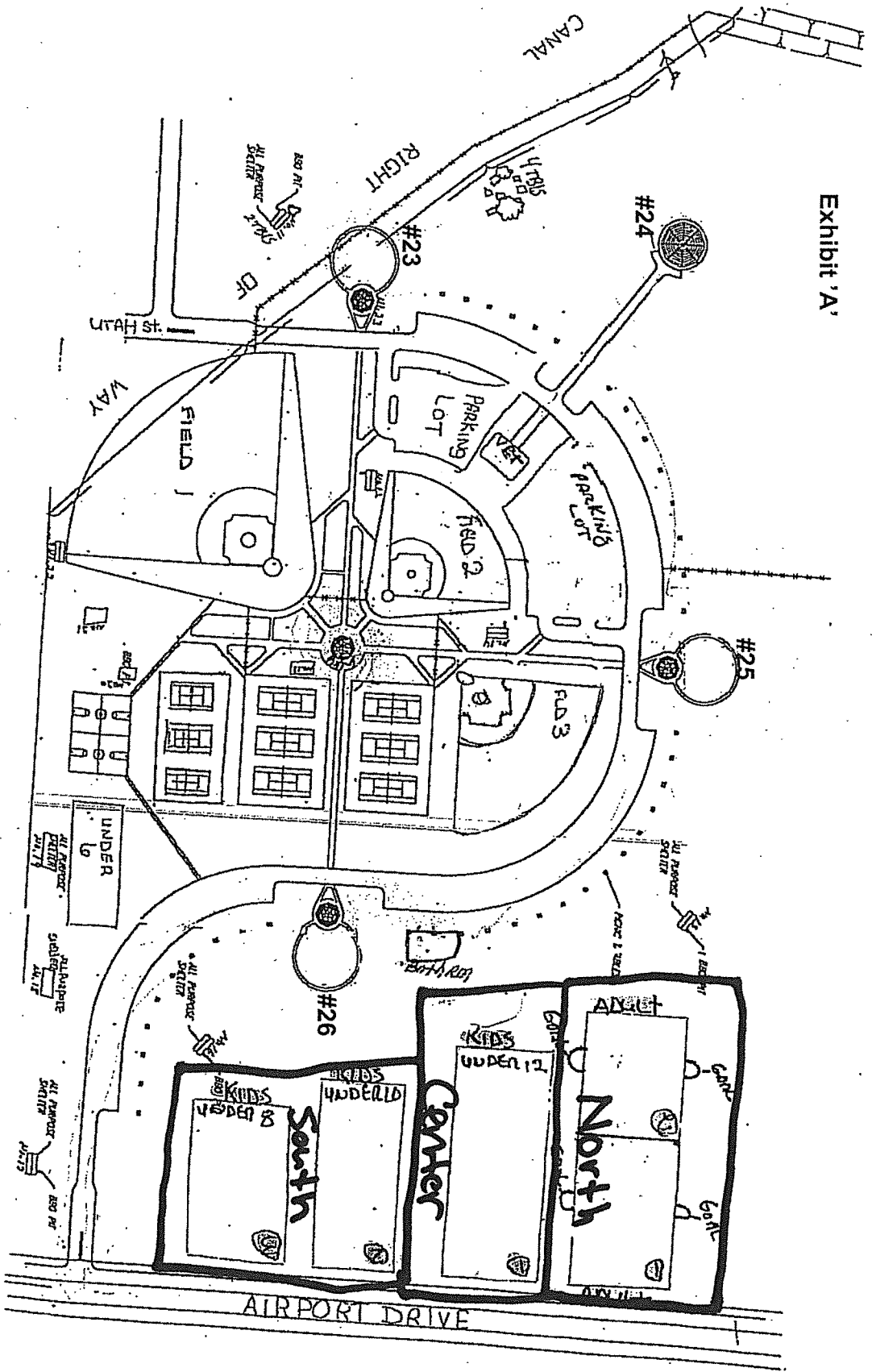
	1657	Emma Pena-Refund	70.00	
	1658	Alexis Rodriguez-Refund	70.00	
	1660	Leslie -- Ref	28.00	
	1661	Mara -- Ref	59.00	
	1663	Hugo -- Ref	53.00	
	1664	John -- Ref	39.00	
	1665	Vicky -- Rf	100.00	
	1666	Gio -- Ref	108.00	
	1667	Raul -- Ref	80.00	
	1669	Julie -- Ref	80.00	
		Service Charge	7.50	
		Bank Fee	1.00	
		Paper Fee	2.00	
		Total Checks	697.50	
Total Expenses:				\$ 3,078.14
Total Income:	Ending Balance as of 10/31/17			\$ 1,594.76

Income Statement				
November 30, 2017				
Income:				
		Balance of 10/31/17		\$ 1,594.76
		Deposit 11/6/17	25.00	
		Deposit 11/6/17	100.00	
		Deposit 11/14/17	70.00	
		Deposit 11/16/17	500.00	
		Deposit 11/19/17	35.00	
		Deposit 11/19/17	378.00	
		Deposit 11/28/17	-	
			-	
		Total Deposits for Month	1,108.00	
Total Income:				\$ 2,702.76
Expenses:	Credit Card Expenses:			
	Reason:	Who:	-	
		Score	30.22	
		Score	52.34	
		Score	92.19	
		Score	192.45	
		HEB	20.00	
		T-mobile	104.02	
		HEB	10.00	
		ATM	200.00	
		Lowes	30.16	
		Total Credit card	731.38	
	Checks Expenses:			
	Check #	Who:		
10/25/2017	1668	Jamie--Ref	95.00	
11/8/2017	1670	Diana -- Ref	150.00	
11/8/2017	1671	Leslie -- Ref	60.00	
11/8/2017	1672	John -- Ref	77.00	
11/8/2017	1673	Gio -- Ref	133.00	
11/8/2017	1674	Raul -- Rf	140.00	
11/8/2017	1675	Jamie -- Ref	135.00	
11/8/2017	1676	Hugo -- Ref	35.00	
11/18/2017	1677	Hugo -- Ref	45.00	
11/18/2017	1678	Cosme--Ref	45.00	
11/18/2017	1679	Miguel--Ref	60.00	
11/18/2017	1680	Carol--Ref	48.00	
11/18/2017	1681	Luis--Ref	93.00	
11/18/2017	1683	Raul -- Ref	120.00	

11/18/2017	1684	Julie--Ref	100.00	
		Service Charge	10.00	
		Bank Fee	1.00	
		Pape Fee	2.00	
		Total Checks	1,349.00	
Total Expenses:				\$ 2,080.38
Total Income:	Ending Balance as of 11/30/17			\$ 622.38

Income Statement				
December 31, 2017				
Income:				
		Balance of 11/30/17		\$ 622.38
		Deposit 12/5/17	200	
	Fees:	Deposit 12/26/17		
		Total Deposits for Month	200.00	
Total Income:				\$ 822.38
Expenses:	Credit Card Expenses:			
	Reason:	Who:	-	
		HEB	11.01	
		Tractor Supply	151.54	
		ATM	100.00	
		R and R Storage	49.00	
		T-Mobile	116.52	
		Golden Corral	52.87	
		Covington Credit	100.00	
		ATM	20.00	
		Total Credit card	\$ 600.94	
	Checks Expenses:			
	Check #	Who:		
	1659	Rodriguez Mom--Reund	90.00	
	1682	Gilberto-Ref	103.00	
		Service Charge	10.00	
		Bank Fee	1.00	
		Paper Fee	2.00	
		Total Checks	\$ 206.00	
Total Expenses:				\$ 806.94
Total Income:	Ending Balance as of 12/31/17			\$ 15.44

Exhibit 'A'



Westlaco City Park 300 N. Airport Dr.



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1874
From:		
Subject: Approval of Weslaco Mid Valley Airport Ground Lease Agreements with Tenant Ray Walker for Hangers W-4 and W-10 and authorize the Mayor to execute any related documents. (Staffed by Airport.)		
Background: The proposed ground lease agreements are for a base five (5) years with a one five (5) year renewal option with a capped three (3%) percent CPI review every three years for each hangar. The hangars are located on the west side of the airport.		
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): 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: W4_Walker, Ray, W-10_Walker, Ray		
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 _____, 2018, 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 Ray Walker, 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 **3,000 sq. ft.** (W4) 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.
- B) Premises shall be designated as W4, measuring 50 feet x 60 feet as described in Exhibit A.

Section 2. Term

- A) This lease shall be for the term of **5 years**. Thereafter, this lease may be renewed for a subsequent **5-year** extension upon giving of written notice by Lessee to Lessor not more than one hundred eighty (180) nor less than sixty (60) days prior to the expiration of the preceding year lease term and upon mutual and written agreement by Lessor as provided for in this lease. Lessee, upon giving written notice to Lessor, may request additional renewal options prior to the expiration of this lease.



Lessee Initials

B) Surrender and Holding Over. Upon the expiration or termination of this Lease, Lessee shall quit and surrender the Premises and 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. Thereafter, the Lessor shall have the right to enter and take possession of the Premises, with or without process of law and without liability for trespass. Holding over or failure to vacate the Premises at the end of the Term or extension shall not be construed to be the granting or exercise of any extension.

Section 3. Consideration

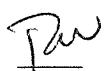
A) In consideration for the lease of the Land/Hangar/Building/Office referenced herein Lessee hereby agrees to pay yearly the sum of **\$ 750.00**. The first year's payment is to be made on the 1st day of September. Thereafter, all future payments shall be made on or before the first working day of the 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 payments 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 protection of Lessor. Lessee should provide his own insurance coverage for any


Lessee Initials

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



Lessee Initials

- 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 lease 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 resumés or upon any public or private records which would indicate failure to 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.

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 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 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: Ray Walker
Address: 11510 Eagle View Drive
Sanger, TX 76266



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 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,



Lessee Initials

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 except to the extent required by the Texas Public Information Act.
- 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 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



Lessee Initials

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.

EXECUTED this _____ day of _____, 2018.

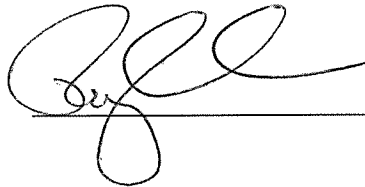
City of Weslaco, Hidalgo County, Texas

Mayor

Approved as to Form:

City Attorney

Attest: _____
City Secretary



Lessee


Lessee Initials

“EXHIBIT A”

HANGAR W4
50' x 60'



Lease Agreement

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

This lease is entered into this _____ day of _____, 2018, 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 Ray Walker, 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 **3,500 sq. ft.** (W10) 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.
- B) Premises shall be designated as W10, measuring 70 feet x 50 feet as described in Exhibit A.

Section 2. Term

- A) This lease shall be for the term of **5 years**. Thereafter, this lease may be renewed for a subsequent **5-year** extension upon giving of written notice by Lessee to Lessor not more than one hundred eighty (180) nor less than sixty (60) days prior to the expiration of the preceding year lease term and upon mutual and written agreement by Lessor as provided for in this lease. Lessee, upon giving written notice to Lessor, may request additional renewal options prior to the expiration of this lease.


Lessee Initials

B) Surrender and Holding Over. Upon the expiration or termination of this Lease, Lessee shall quit and surrender the Premises and 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. Thereafter, the Lessor shall have the right to enter and take possession of the Premises, with or without process of law and without liability for trespass. Holding over or failure to vacate the Premises at the end of the Term or extension shall not be construed to be the granting or exercise of any extension.

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 **\$ 875.00**. The first year's payment is to be made on the 1st day of September. 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 payments 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 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 contained in marked, approved containers. Such storage will be at the discretion of and


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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 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 lease 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 resumés or upon any public or private records which would indicate failure to 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


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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.

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


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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 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


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


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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



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C) Notice to Lessee to be sent to:

Lessee Name: Ray Walker
Address: 11510 Eagle View Drive
Sanger, TX 76266



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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 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,


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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 except to the extent required by the Texas Public Information Act.
- 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 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


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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.

EXECUTED this _____ day of _____, 2018.

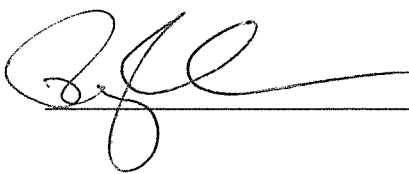
City of Weslaco, Hidalgo County, Texas

Mayor

Approved as to Form:

City Attorney

Attest: _____
City Secretary



Lessee

“EXHIBIT A”

HANGAR W10
70' x 50'





U. S. Department of Justice
Drug Enforcement Administration
Houston Division
1433 West Loop South, Suite 600
Houston, Texas 77027

www.dea.gov

August 1, 2018

Joel Rivera
Chief of Police
Weslaco Police Department
901 N. Airport Drive
Weslaco, Texas 78596

Dear Chief Rivera:

Thank you for your continued support of the Drug Enforcement Administration. Your participation in the State and Local Task Force Program allows us to jointly and effectively serve the local community as a whole.

Enclosed for your review and signature is the Task Force Agreements for Fiscal Year 2019. It is respectfully requested that this agreement be returned in the enclosed self-addressed envelope by September 15, 2018. Once all signatures are obtained, a courtesy copy will be emailed to your office point of contact. Please provide his or her email address to myrna.garcia.robles@usdoj.gov.

If you have any questions, please contact Ms. Robles at 713-693-3022.

Sincerely,

A handwritten signature in black ink that reads "Will R. Glaspy". The signature is fluid and cursive.

Will R. Glaspy
Special Agent in Charge

Enclosures

STATE AND LOCAL HIDTA TASK FORCE AGREEMENT

This agreement is made this 1st day of October 2018, between the United States Department of Justice, Drug Enforcement Administration (hereinafter "DEA"), and the Weslaco Police Department (hereinafter "WPD"). The DEA is authorized to enter into this cooperative agreement concerning the use and abuse of controlled substances under the provisions of 21 U.S.C. § 873.

Whereas there is evidence that trafficking in narcotics and dangerous drugs exists in the McAllen, Texas, area and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of Texas, the parties hereto agree to the following:

1. The McAllen HIDTA Task Force will perform the activities and duties described below:
 - a. disrupt the illicit drug traffic in the McAllen, Texas, area by immobilizing targeted violators and trafficking organizations;
 - b. gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
 - c. conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Task Force's activities will result in effective prosecution before the courts of the United States and the State of Texas.
2. To accomplish the objectives of the McAllen HIDTA Task Force, the WPD agrees to detail one (1) experienced officer(s) to the HIDTA Task Force for a period of not less than two years. During this period of assignment, the assigned officer(s) will be under the direct supervision and control of DEA supervisory personnel assigned to the Task Force.
3. The WPD officer(s) assigned to the Task Force shall adhere to all DEA policies and procedures. Failure to adhere to DEA policies and procedures shall be grounds for dismissal from the Task Force.
4. The WPD officer(s) assigned to the Task Force shall be deputized as Task Force Officer(s) of DEA pursuant to 21 USC 878.
5. To accomplish the objectives of the HIDTA Task Force, DEA will assign 40 Special Agents to the Task Force. HIDTA will also, subject to the availability of annually appropriated funds or any continuing resolution thereof, provide necessary funds and equipment to support the activities of the DEA Special Agents and WPD officer(s) to the Task Force. This support will include: office space, office supplies, travel funds, funds for the purchase of evidence and information, investigative equipment, training and other support items. ***Note: This support does not include the use of a DEA Official Government Vehicle. However, the WPD will provide the assigned Task Force Officer(s) with a vehicle for official use at all times.***
6. During the period of assignment to the HIDTA Task Force, the WPD will remain responsible for establishing the salaries and benefits, including overtime, of the WPD officer(s) assigned to

the Task Force and for making all payments due them. HIDTA will, subject to availability of funds, reimburse the WPD for overtime payments made by it to the officer(s) assigned to the McAllen Task Force for overtime, up to a sum equivalent to 25 percent of the salary of a GS-12, Step 1 (RUS) federal employee, currently \$18,343.75, per officer. ***Note: Task Force Officer's overtime "Shall not include any costs for benefits, such as retirement, FICA, and other expenses."***

7. In no event will the WPD charge any indirect cost rate to DEA for the administration or implementation of this agreement.

8. The WPD shall maintain on a current basis complete and accurate records and accounts of all obligations and expenditures of funds under this agreement in accordance with generally accepted accounting principles and instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.

9. The WPD shall permit and have readily available for examination and auditing by DEA, the United States Department of Justice, the Comptroller General of the United States and any of their duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this agreement. The WPD shall maintain all such reports and records until all litigation, claim, audits and examinations are completed and resolved or for a period of three (3) years after termination of this agreement, whichever is later.

10. The WPD shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the United States Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H and I.

11. The WPD agrees that an authorized officer(s) or employee will execute and return to DEA the attached OJP Form 4061/6, Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements. The WPD acknowledges that this agreement will not take effect and no federal funds will be awarded until the completed certification is received.

12. When issuing statements, press releases requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or part with federal money, the WPD shall clearly state: (1) percentage of the total cost of the program or project which will be financed with federal money and (2) the dollar amount of federal funds for the program or project.

13. The term of this agreement shall be effective from the date in paragraph number one until September 30, 2019. This agreement may be terminated by either party on 30 days advance written notice. Billing for all outstanding obligations must be received by DEA within 90 days of the date of termination of this agreement. HIDTA will be responsible only for obligations incurred by WPD during the term of this agreement.

For the Drug Enforcement Administration:

Will R. Glaspy
Special Agent in Charge

Date: _____

For the Weslaco Police Department:

Joel Rivera
Chief of Police

Date: _____



ATTEST:

Elizabeth Walker
City Secretary

Date: _____

APPROVED AS TO FORM:

Juan E. Gonzalez
City Attorney

Date: _____



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

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

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 Seventh Street NW., Washington, DC 20531.

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

1. Grantee Name and Address: (Grantee = Agency)

2. Application Number and/or Project Name

N/A

3. Grantee IRS/Vendor Number

N/A

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date





Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1893	
From:			
Subject: Approval of the renewal of the agreements with Muniservices for local hotel occupancy tax program and sales tax audit and administration services and authorize the Mayor to execute any related documents. (Staffed by Finance Department.)			
Background: The contracts are for one year, with automatic renewal for two more years if neither party has cancelled with 30 days written notice. We've been working with them since 2013.			
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):			
Mary Barrera		Created/Initiated	
Mary Barrera		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Recommend renewal.			
Attachments, if any: Weslaco HOT pxn, Weslaco, TX SUTA, STARS 8-14-18 revised			
Responsibilities upon Approval:			

MuniServices, LLC
Consultant Services Agreement

This Consultant Services Agreement (the "Agreement") is made as of the _____ day of _____, 2018 ("Effective Date") by and between MuniServices, LLC, a Delaware limited liability company ("CONSULTANT") and The City of Weslaco, a municipal corporation of the State of Texas ("CITY"). In consideration of the mutual promises herein contained and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties agree as follows:

A. Services

1. CONSULTANT will provide CITY with the services described in EXHIBIT A which is attached hereto and incorporated by reference. CONSULTANT shall provide said services at the time, place, and in the manner specified in EXHIBIT A.
2. CONSULTANT shall furnish at its own expense all labor, materials, equipment and other items necessary to carry out the terms of this Agreement.

B. Compensation

1. Upon execution of this Agreement, CITY will pay CONSULTANT as outlined in EXHIBIT B, incorporated and included herein.

C. General Provisions

1. Term of the Agreement: The initial term of this Agreement shall be for a period of one (1) year following the date of execution, and automatically renew for two subsequent one-year terms if neither party has cancelled (the "Term"). Either party shall have the right to terminate this Agreement in the event of a material breach by the other party. Any such termination may be made only by providing sixty (60) days written notice to the other party, specifically identifying the breach or breaches on which termination is based. Following receipt of such notice, the party in breach shall have thirty (30) days to cure such breach or breaches. In the event that such cure is not made, this Agreement shall terminate in accordance with the initial sixty (60) days' notice. Notwithstanding the foregoing, either party may terminate the Agreement at any time and for any reason by providing thirty-days (30) written notice to the other party; provided however, that if CONSULTANT has not breached the Agreement and has commenced services identified in EXHIBIT A prior to the date of termination, CONSULTANT shall be entitled to payment as described in EXHIBIT B.
2. Effect of Termination: Notwithstanding non-renewal or termination of this Agreement, CITY shall be obligated to pay CONSULTANT for services performed through the effective date of termination for which CONSULTANT has not been previously paid. In addition, because the services performed by CONSULTANT prior to termination or non-renewal of this Agreement may result in the CITY's receipt of revenue after termination which are subject to CONSULTANT's fee, the CITY shall remain obligated after termination or non-renewal to provide to CONSULTANT such information as is necessary for CONSULTANT to calculate compensation due as a result of the receipt of revenue by the CITY.
3. Independent Contractor: It is understood that CONSULTANT and its subcontractors, if any, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the CITY. CITY understands that CONSULTANT may perform similar services for others during the term of this Agreement and agrees that CONSULTANT representation of other government

sector clients is not a conflict of interest. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

4. **Subcontractors:** CONSULTANT shall have the right to hire subcontractors to provide the services described herein. CONSULTANT, in rendering performance under this Agreement shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. CONSULTANT shall be solely responsible for and shall hold CITY harmless from any and all claims for any employee related fees and costs including without limitation employee insurance, employment taxes, workman's compensation, withholding taxes or income taxes.
5. **Notice:** Any notice required to be given under this Agreement shall be in writing and either served personally, sent prepaid first-class mail, or by express mail courier (i.e. FedEx, UPS, etc.). Any such notice shall be addressed to the other party at the address set forth below. All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by regular mail, or the next day if sent overnight delivery.

If to CITY:

City of Weslaco
Attn: Maria Barrera, Finance Director
255 S. Kansas Ave.
Weslaco, TX 78596
Phone: 956.968.3181
Email: mbarrera@weslacotx.gov

If to CONSULTANT:

MuniServices, LLC
Attn: Contracts Department
7625 N. Palm Ave., Ste. 108
Fresno, CA 93711
Phone: 559.271.6852
Email: contracts@muniservices.com

6. **Representative or designees:** CONSULTANT Primary Representative/Project Manager shall be:

Brenda Anderson, Client Services Manager
12301Kurland Drive, Suite 150, Houston, TX 77034
Phone: 817.771.4066 /Email: Brenda.Anderson@MuniServices.com

For the convenience of the CITY, a short list of helpful contacts is attached and incorporated herein as EXHIBIT C.

7. **Indemnity:** CONSULTANT shall indemnify, defend, and hold harmless the CITY, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to extent occurring or resulting from CONSULTANT's negligent or unlawful performance of its obligations under or breach of the terms of this Agreement, unless such claims, liabilities, or losses arise out of, or are caused at least in part by the sole negligence or willful misconduct of the CITY. "CONSULTANT's performance" includes CONSULTANT's action or inaction and the action or inaction of CONSULTANT's officers, employees, agents and subcontractors.
8. **Limitation of Liability:** In no event shall CONSULTANT, its employees, contractors, directors, affiliates and/or agents be liable for any special, incidental, or consequential damages, such as, but not limited to, delay, lost data, disruption, and loss of anticipated profits or revenue arising from or related to the services, whether liability is asserted in contract or tort, and whether or not CONSULTANT has been advised of the possibility of any such loss or damage. In addition, CONSULTANT's total liability hereunder, including reasonable attorneys' fees and costs, shall in no event exceed an amount equal to the fees described in EXHIBIT B. The foregoing sets forth the CITY's exclusive remedy for claims arising from or out of this Agreement. The provisions of this section

allocate the risks between CONSULTANT and the CITY and CONSULTANT's pricing reflects the allocation of risk and limitation of liability specified herein.

9. Insurance: CONSULTANT shall keep in full force and effect insurance coverage during the term of this Agreement, including without limitation statutory workers' compensation insurance; employer's liability and commercial general liability insurance; comprehensive automobile liability insurance; professional liability and fidelity insurance. The insurance certificate shall name the City, its agents, officers, servants and employees as additional insureds under the CGL and Automobile policies with respect to the operations and work performed by the named insured as required by written contract. The General Liability policy is Primary & Non-Contributory. Waiver of Subrogation applies under the General Liability and Workers' Compensation policies. The CGL insurance minimum coverage shall be at least \$1,000,000 per incident, claim or occurrence and \$2,000,000 aggregate. The Automobile Liability insurance minimum coverage shall be at least \$1,000,000 covering all owned, non-owned, and hired vehicles. The certificate shall provide that there will be no cancellation, termination, or non-renewal of the insurance coverage without a minimum 30-day written notice to the CITY, except in the case of cancellation for non-payment of premium which shall be at least 10-days written notice.
10. Equal Opportunity to Draft: The parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.
11. Assignment: This Agreement shall be binding upon and inure to the benefit of the parties, their successors, representatives and assigns. CONSULTANT shall not assign this Agreement, or delegate its duties or obligations under this Agreement, without the prior written consent of CITY, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, CONSULTANT may assign this Agreement, in whole or in part, without the consent of CITY to any corporation or entity into which or with which CONSULTANT has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of CONSULTANT; or any corporation or entity which acquires all or substantially all of the assets of CONSULTANT. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
12. Ownership of Documents: Except for CONSULTANT's preexisting proprietary information and processes, any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by CONSULTANT pursuant to this agreement shall be the property of the CITY at the moment of their completed preparation.
13. Intellectual Property Rights: The entire right, title and interest in and to CONSULTANT's database and all copyrights, patents, trade secrets, trademarks, trade names, and all other intellectual property rights associated with any and all ideas, concepts, techniques, inventions, processes, or works of authorship including, but not limited to, all materials in written or other tangible form developed or created in the course of this Agreement (collectively, the "Work Product") shall vest exclusively in CONSULTANT or its subcontractors. The foregoing notwithstanding, in no event shall any CITY-owned data provided to CONSULTANT be deemed included within the Work Product.
14. Public Release and Statements: Neither party or its representatives or agents shall disseminate any oral or written advertisement, endorsement or other marketing material relating to each other's activities under this Agreement without the prior written approval of the other party. Neither party shall make any public release or statement concerning the subject matter of this Agreement without the express written consent and approval of the other party. No party or its agent will use the name, mark or logo of the other party in any advertisement or printed solicitation without first having prior written approval of the other party. The parties shall take

reasonable efforts to ensure that its subcontractors shall not disseminate any oral or written advertisement, endorsement or other marketing materials referencing or relating to the other party without that party's prior written approval. In addition, the parties agree that their contracts with all subcontractors will include appropriate provisions to ensure compliance with the restrictions of this Section.

15. Force Majeure: CONSULTANT shall not be in default of its obligations hereunder to the extent that its performance is delayed or prevented by causes beyond its control, including but not limited to acts of God, government, weather, fire, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.
16. Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter contained herein. Said Agreement shall not be amended, altered, or changed, except by a written amendment signed by both parties.
17. Counterparts: This Agreement may be signed in separate counterparts including facsimile copies. Each counterpart (including facsimile copies) is deemed an original and all counterparts are deemed on and the same instrument and legally binding on the parties.
18. Invalidity: If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
19. Implementation: Implementation should begin as soon as possible from the signing of this Agreement (the "Effective Date") for the performance of services under the terms of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the parties have caused this Agreement to be executed on the date first written above.

"CITY"

City of Weslaco

a Municipal Corporation

By: _____

Name: _____

Title: _____

ATTEST:

Name: _____

Title: _____

APPROVED AS TO FORM:

Name: _____

Title: _____

"CONSULTANT"

MuniServices, LLC

a Delaware limited liability company

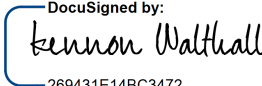
By:  _____
Kennon Walthall
Senior Vice President

EXHIBIT A - SCOPE OF WORK

LOCAL OCCUPANCY TAX PROGRAM AUDIT AND ADMINISTRATION SERVICES

Objectives and Methods

CONSULTANT's Local Occupancy Tax Program Audit service is intended to assist the CITY in maximizing lodging tax revenue it is entitled to through an on-site examination of records and education of the lodging providers to ensure the appropriate collection and remittance of the lodging tax. The Administration service offers a turnkey approach to ensure appropriate collection, deposit, recording, delinquency follow up and reporting of the local lodging tax. This service includes all correspondence, forms and other such services to ensure appropriate and timely remittance of the tax.

Scope of Work

1. Field Audit Services

- a. Perform on-site examinations of the records of those providers requested by CITY to warrant further investigation;
- b. Provide CITY staff with a detailed list of all records required to be made available by lodging providers for the further reviews, together with a draft engagement announcement letter to be sent to each lodging provider requiring examination;
- c. In coordination with CITY staff, schedule and conduct reviews at the property locations of those providers identified and authorized for examination;
- d. Verify accuracy of filed lodging tax returns with daily and monthly activity summaries;
- e. Review a random sample of the daily and monthly summaries to determine if the daily summaries reconcile to the monthly summaries;
- f. Review bank statements to verify that deposits reconcile with the reported revenue on the lodging tax returns';
- g. Review exempted revenue for proper qualifying documentation;
- h. Review a random sample of exempted guest revenue and trace registration and/or other source documents to verify compliance with the CITY ordinance;
- i. Where possible, compare the State lodging tax filings with CITY's tax returns;
- j. For each error/omission identified and confirmed, submit substantiating documentation to designated CITY staff in order to facilitate collection of revenue due from lodging providers for prior periods;
- k. Coordinate with designated CITY official(s) as necessary to review findings and recommendations;
- l. Prepare draft Notices of Deficiency Determination, and commendation, warning and credit letters, as applicable, for CITY to advise lodging providers of examination results
- m. Provide assistance to CITY in reviewing any matters submitted in extenuation and mitigation by lodging providers in contesting a deficiency determination; and
- n. Prepare and document any changes to the review findings and provide revised tax, interest or penalty amounts due the CITY.

2. Administration Services

A. Remittance Processing

1. Taxes Processed: CONSULTANT will perform remittance processing for lodging taxes as designated by the CITY.
2. Taxpayer Notification and Remittance: CONSULTANT will send individualized tax forms to all known lodging providers ("Taxpayer(s)"). Taxpayers will remit payments as indicated in Attachment A, Distribution Confirmation, attached and incorporated herein by reference. Upon reasonable notice to CITY, CONSULTANT may change the address for payments.

Online filing and remittance using standard CONSULTANT formatting is provided for the Taxpayers convenience.

3. Deposit Process: Deposits are made to the extent that funds have been received, via Automated Clearing House of the amounts and to the designated recipients as instructed by the CITY for each type of tax collected, as shown in more detail on Attachment A
4. Posting Process: Taxpayer accounts are posted with payment information captured in the CONSULTANT revenue system. Additional information such as net sales, deductions, credit sales, measure of tax, name

change and address change is captured and added to the payment data and taxpayer master file (as determined necessary by CONSULTANT). Late payments (postmarked by U.S. Postal Service after the due date) are invoiced at penalty amounts required by State code. Under-payments are invoiced for remaining tax due plus any required penalties.

5. Changes to Attachment A: The CITY shall notify CONSULTANT in writing immediately of all changes in amounts to be deposited into the accounts of designated recipients. An amended Attachment A shall be prepared and executed by the Parties as soon as reasonably possible. In addition, CONSULTANT shall provide documentation confirming each change under the preceding sentence with the first monthly report reflecting the applicable change. If the changes reflected in the monthly report do not properly reflect the intended changes of the CITY, then the CITY shall immediately notify CONSULTANT and, thereafter, CONSULTANT shall take the steps necessary to insure that designated recipients receive the amounts intended by the CITY.

B. Compliance Services

1. Taxes Reviewed: CONSULTANT will perform compliance services for lodgings taxes designated by CITY under Remittance Processing Services. CONSULTANT will provide delinquency notification and follow-up. This includes correspondence, calls, and collection procedures and the related documentation. Delinquency policies and procedures will be applied consistently and within applicable tax laws. Unless otherwise directed by the CITY, CONSULTANT will make reasonable efforts to collect taxes designated by the CITY hereunder. Where deemed reasonably appropriate accounts may be turned over to audit or third party collection. If the CITY elects to have its attorney pursue collection of certain uncollected accounts, CONSULTANT will assist the CITY attorney as reasonably requested at its normal hourly rate as reflected herein.
2. Conduct of Compliance Services: To assure that all taxpayers are treated fairly and consistently and all compliance services are performed in a similar manner, CONSULTANT representatives who perform compliance services will use a similar compliance plan for each compliance service conducted. All funds due from compliance services will be remitted to CITY in the same manner as provided for pursuant to *Section B*, above.

C. General Provisions

1. Information Provided: The CITY represents that the information provided to CONSULTANT in the performance of services hereunder shall be provided free and clear of the claims of third parties. The CITY represents that it has the right to provide this information to CONSULTANT and that said information shall not be defamatory or otherwise expose CONSULTANT to liability to third parties.
2. Compliance with laws: Each Party accepts responsibility for its compliance with federal, state, or local laws and regulations.
3. Taxpayer service: CONSULTANT will provide a taxpayer assistance number for taxpayer questions. CONSULTANT will provide standard informational brochures for placement in the CITY offices, Chamber of Commerce offices, libraries and any other facilities as requested and/or deemed necessary.

Deliverables

1. Field Audit Services

- a. Provide CITY staff with a draft Audit Announcement Letter to be sent to each lodging provider to be examined;
- b. For each error/omission identified and confirmed, submit a written report substantiating documentation to designated CITY staff in order to facilitate collection of revenue due from lodging providers for prior periods together with draft Notices of Deficiency Determination, and/or credit, warning or commendation letters as applicable;
- c. Review any extenuation or mitigation proffered to deficiency determinations and prepare draft response to CITY staff; and
- d. Provide other collections advice upon request.

2. Administration Services

- a. CONSULTANT will make available to CITY detailed online reporting, including detailed payment listing, daily/weekly/monthly reconciliation reports, etc.
- b. CONSULTANT will provide the CITY with monthly reports including, but not limited to, payment listings showing all taxes received related to net receipts reported, a general ledger distribution that corresponds to the CITY's

account numbers and all fees paid to CONSULTANT. These reports will be provided by the 10th of the month following the tax month;

- c. The CITY AGREES TO EXAMINE THIS REPORT IMMEDIATELY. IF NO ERROR IS REPORTED BY THE CITY TO CONSULTANT WITHIN 60 DAYS, THE STATEMENT WILL BE DEEMED ACCURATE; All items credited will be subject to receipt of payment.

CITY Assistance

The CITY shall assist CONSULTANT by providing necessary information and assistance to include, but not be limited to, the following:

Field Audit Services

Send Audit Announcement Letter to each lodging provider to be examined with a copy to CONSULTANT.

Administration Service

Prior to the start of the work to be performed, provide CONSULTANT with

1. the most recent registration to collect the tax and
2. returns for the time period requested as needed to compile a historical database for the period of the statute of limitations;
3. Inform CONSULTANT of any circumstances concerning current existing payees;
4. Inform CONSULTANT of the development of new lodging properties no later than the Certificate of Occupancy being granted;
5. Cooperate in the transition by reviewing proposed processing and materials, offering comments and suggestions and providing timely approvals;
6. Undergo training in the use of online applications.

Distribution Confirmation

The CITY will fill in the account information requested on Attachment A and attach the same to the fully executed Agreement. Should there be any changes to the account or percentages in Attachment A, the CITY shall immediately notify CONSULTANT in writing of all changes in amounts to be deposited into the accounts of designated recipients.

ATTACHMENT A
Distribution Confirmation

July 1, 2018

City of Weslaco
 255 S. Kansas Ave.
 Weslaco, TX 78596

Dear Maria Barrera:

Funds will be distributed in the following accounts pursuant to this Agreement:

Agency	Routing #	Account #	Distribution %	Tax Type
			100%	Lodging

If at any time there are any discrepancies between the schedule set out above and the CITY's records, please notify us in writing immediately.

IT IS YOUR RESPONSIBILITY TO PROVIDE NOTICE TO US OF ANY CHANGES IN TAX RATES OR IN THE DISTRIBUTION OF FUNDS. NOTICE MUST BE IN WRITING AND SENT, VIA CERTIFIED MAIL, TO:

MuniServices, LLC
 600 Beacon Parkway West, Ste. 900
 Birmingham, AL 35209
 Attn.: Kennon Walthall, SVP Operations

Thank you for your assistance. If you have any questions, or if I may be of assistance, please let me know.

Connie Taylor, Client Relations Manager
 MuniServices
 Phone: 205-423-4144
 Fax: 205-423-4097
 E-mail: ctaylor@revds.com

I have reviewed the above distribution and verify that it is correct.

By: _____

Name: _____

Title: _____

EXHIBIT B – COMPENSATION

LOCAL OCCUPANCY TAX PROGRAM AUDIT AND ADMINISTRATION SERVICES

Provided that the Effective Date is on or before September 1, 2018 in exchange for CONSULTANT performing the work indicated above, the CITY will pay CONSULTANT as follows:

Audit

The Audit Services shall be provided for a fixed fee of \$2,000 for each lodging property audited with 50% due at the time of audit approval and 50% upon completion of the audit. A minimum of 2 audits must be performed at any one time.

Administration

The Administration Services shall be provided for a one-time set up fee of \$2,500, plus an annual fixed fee of \$250 per each lodging property. Fees are due at the beginning of each contract year based on the number of properties registered to report occupancy tax.

Discount

If the CITY permits on-site examination of the records of ten percent (10%) but no less than 2 of the CITY's lodging properties per year to insure compliance in collecting and returning the local hotel occupancy tax, CONSULTANT shall discount the Administration services to an annual fixed fee of \$200 per each lodging property.

Travel and Out-of-Pocket

CITY shall reimburse CONSULTANT for reasonable travel and other out-of-pocket expenses associated with the performance of the field audits including but not limited to lodging, parking, mileage, per diem, etc. (Mileage and per diem shall be according to IRS regulations). Such reimbursement shall be billed incrementally.

Additional Consulting

CITY may request that CONSULTANT provide additional consulting services at any time during the term of this Agreement. If CONSULTANT and CITY agree on the scope of the additional consulting services requested, then CONSULTANT shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, standard hourly rates range from \$75 per hour to \$200 per hour.

These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred.

EXHIBIT C
MUNISERVICES HELPFUL CONTACTS

Contact	Project Role	Phone	Email
Brenda Anderson	Client Services Manager	817.771.4066	brenda.anderson@muniservices.com
Kennon Walthall	Senior Vice President	205.423.4114	kwalthall@revds.com
Cindy Prather	Audit Supervisor	281.677.2965	CKPrather@broussardpa.com
Christy Cato	VP Tax Administration	205.423.4136	ccato@revds.com
Patricia A. Dunn, MSHR	Contracts Manager	559.271.6852	patricia.dunn@muniservices;.com
Carol Dyar	Tax Administration Manager	205.423.4145	cdyar@revds.com
Jaimie Lewis	Billing Department	571.485.7875	billing@muniservices.com
Francesco Mancia, MBA	VP Government Relations	559.288.7296	fran.mancia@muniservices.com

MuniServices, LLC
Consultant Services Agreement

This Consultant Services Agreement (the "Agreement") is made as of the _____ day of _____, 2018 ("Effective Date") by and between MuniServices, LLC, a Delaware limited liability company ("CONSULTANT") and The City of Weslaco, a municipal corporation of the State of Texas ("CITY"). In consideration of the mutual promises herein contained and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties agree as follows:

A. Services

1. CONSULTANT will provide CITY with the services described in EXHIBIT A which is attached hereto and incorporated by reference. CONSULTANT shall provide said services at the time, place, and in the manner specified in EXHIBIT A.
2. CONSULTANT shall furnish at its own expense all labor, materials, equipment and other items necessary to carry out the terms of this Agreement.

B. Compensation

1. Upon execution of this Agreement, CITY will pay CONSULTANT as outlined in EXHIBIT B, incorporated and included herein.

C. General Provisions

1. Term of the Agreement: The initial term of this Agreement shall be for a period of one (1) year following the date of execution, and automatically renew for two subsequent one-year terms if neither party has cancelled (the "Term"). Either party shall have the right to terminate this Agreement in the event of a material breach by the other party. Any such termination may be made only by providing sixty (60) days written notice to the other party, specifically identifying the breach or breaches on which termination is based. Following receipt of such notice, the party in breach shall have thirty (30) days to cure such breach or breaches. In the event that such cure is not made, this Agreement shall terminate in accordance with the initial sixty (60) days' notice. Notwithstanding the foregoing, either party may terminate the Agreement at any time and for any reason by providing thirty-days (30) written notice to the other party; provided however, that if CONSULTANT has not breached the Agreement and has commenced services identified in EXHIBIT A prior to the date of termination, CONSULTANT shall be entitled to payment as described in EXHIBIT B.
2. Effect of Termination: Notwithstanding non-renewal or termination of this Agreement, CITY shall be obligated to pay CONSULTANT for services performed through the effective date of termination for which CONSULTANT has not been previously paid. In addition, because the services performed by CONSULTANT prior to termination or non-renewal of this Agreement may result in the CITY's receipt of revenue after termination which are subject to CONSULTANT's fee, the CITY shall remain obligated after termination or non-renewal to provide to CONSULTANT such information as is necessary for CONSULTANT to calculate compensation due as a result of the receipt of revenue by the CITY.
3. Independent Contractor: It is understood that CONSULTANT and its subcontractors, if any, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the CITY. CITY understands that CONSULTANT may perform similar services for others during the term of this Agreement and agrees that CONSULTANT representation of other government

sector clients is not a conflict of interest. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

4. Subcontractors: CONSULTANT shall have the right to hire subcontractors to provide the services described herein. CONSULTANT, in rendering performance under this Agreement shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. CONSULTANT shall be solely responsible for and shall hold CITY harmless from any and all claims for any employee related fees and costs including without limitation employee insurance, employment taxes, workman's compensation, withholding taxes or income taxes.
5. Notice: Any notice required to be given under this Agreement shall be in writing and either served personally, sent prepaid first-class mail, or by express mail courier (i.e. FedEx, UPS, etc.). Any such notice shall be addressed to the other party at the address set forth below. All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by regular mail, or the next day if sent overnight delivery.

If to CITY:

City of Weslaco
Attn: Maria Barrera, Finance Director
255 S. Kansas Ave.
Weslaco, TX 78596
Phone: 956.968.3181
Email: mbarrera@weslacotx.gov

If to CONSULTANT:

MuniServices, LLC
Attn: Contracts Department
7625 N. Palm Ave., Ste. 108
Fresno, CA 93711
Phone: 559.271.6852
Email: contracts@muniservices.com

6. Representative or designees: CONSULTANT Primary Representative/Project Manager shall be:

Brenda Anderson, Client Services Manager
12301Kurland Drive, Suite 150, Houston, TX 77034
Phone: 817.771.4066 /Email: Brenda.Anderson@MuniServices.com

For the convenience of the CITY, a short list of helpful contacts is attached and incorporated herein as EXHIBIT C.

7. Indemnity: CONSULTANT shall indemnify, defend, and hold harmless the CITY, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to extent occurring or resulting from CONSULTANT's negligent or unlawful performance of its obligations under or breach of the terms of this Agreement, unless such claims, liabilities, or losses arise out of, or are caused at least in part by the sole negligence or willful misconduct of the CITY. "CONSULTANT's performance" includes CONSULTANT's action or inaction and the action or inaction of CONSULTANT's officers, employees, agents and subcontractors.
8. Limitation of Liability: In no event shall CONSULTANT, its employees, contractors, directors, affiliates and/or agents be liable for any special, incidental, or consequential damages, such as, but not limited to, delay, lost data, disruption, and loss of anticipated profits or revenue arising from or related to the services, whether liability is asserted in contract or tort, and whether or not CONSULTANT has been advised of the possibility of any such loss or damage. In addition, CONSULTANT's total liability hereunder, including reasonable attorneys' fees and costs, shall in no event exceed an amount equal to the fees described in EXHIBIT B. The foregoing sets forth the CITY's exclusive remedy for claims arising from or out of this Agreement. The provisions of this section

allocate the risks between CONSULTANT and the CITY and CONSULTANT's pricing reflects the allocation of risk and limitation of liability specified herein.

9. Insurance: CONSULTANT shall keep in full force and effect insurance coverage during the term of this Agreement, including without limitation statutory workers' compensation insurance; employer's liability and commercial general liability insurance; comprehensive automobile liability insurance; professional liability and fidelity insurance. The insurance certificate shall name the City, its agents, officers, servants and employees as additional insureds under the CGL and Automobile policies with respect to the operations and work performed by the named insured as required by written contract. The General Liability policy is Primary & Non-Contributory. Waiver of Subrogation applies under the General Liability and Workers' Compensation policies. The CGL insurance minimum coverage shall be at least \$1,000,000 per incident, claim or occurrence and \$2,000,000 aggregate. The Automobile Liability insurance minimum coverage shall be at least \$1,000,000 covering all owned, non-owned, and hired vehicles. The certificate shall provide that there will be no cancellation, termination, or non-renewal of the insurance coverage without a minimum 30-day written notice to the CITY, except in the case of cancellation for non-payment of premium which shall be at least 10-days written notice.
10. Equal Opportunity to Draft: The parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.
11. Assignment: This Agreement shall be binding upon and inure to the benefit of the parties, their successors, representatives and assigns. CONSULTANT shall not assign this Agreement, or delegate its duties or obligations under this Agreement, without the prior written consent of CITY, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, CONSULTANT may assign this Agreement, in whole or in part, without the consent of CITY to any corporation or entity into which or with which CONSULTANT has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of CONSULTANT; or any corporation or entity which acquires all or substantially all of the assets of CONSULTANT. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
12. Ownership of Documents: Except for CONSULTANT's preexisting proprietary information and processes, any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by CONSULTANT pursuant to this agreement shall be the property of the CITY at the moment of their completed preparation.
13. Intellectual Property Rights: The entire right, title and interest in and to CONSULTANT's database and all copyrights, patents, trade secrets, trademarks, trade names, and all other intellectual property rights associated with any and all ideas, concepts, techniques, inventions, processes, or works of authorship including, but not limited to, all materials in written or other tangible form developed or created in the course of this Agreement (collectively, the "Work Product") shall vest exclusively in CONSULTANT or its subcontractors. The foregoing notwithstanding, in no event shall any CITY-owned data provided to CONSULTANT be deemed included within the Work Product.
14. Public Release and Statements: Neither party or its representatives or agents shall disseminate any oral or written advertisement, endorsement or other marketing material relating to each other's activities under this Agreement without the prior written approval of the other party. Neither party shall make any public release or statement concerning the subject matter of this Agreement without the express written consent and approval of the other party. No party or its agent will use the name, mark or logo of the other party in any advertisement or printed solicitation without first having prior written approval of the other party. The parties shall take

reasonable efforts to ensure that its subcontractors shall not disseminate any oral or written advertisement, endorsement or other marketing materials referencing or relating to the other party without that party's prior written approval. In addition, the parties agree that their contracts with all subcontractors will include appropriate provisions to ensure compliance with the restrictions of this Section.

15. Force Majeure: CONSULTANT shall not be in default of its obligations hereunder to the extent that its performance is delayed or prevented by causes beyond its control, including but not limited to acts of God, government, weather, fire, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.
16. Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter contained herein. Said Agreement shall not be amended, altered, or changed, except by a written amendment signed by both parties.
17. Counterparts: This Agreement may be signed in separate counterparts including facsimile copies. Each counterpart (including facsimile copies) is deemed an original and all counterparts are deemed on and the same instrument and legally binding on the parties.
18. Invalidity: If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
19. Implementation: Implementation should begin as soon as possible from the signing of this Agreement (the "Effective Date") for the performance of services under the terms of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the parties have caused this Agreement to be executed on the date first written above.

"CITY"

City of Weslaco

a Municipal Corporation

"CONSULTANT"

MuniServices, LLC

a Delaware limited liability company

By: _____

Name: _____

Title: _____

By: _____

Patrick Scott

Senior Vice President

ATTEST:

Name: _____

Title: _____

APPROVED AS TO FORM:

Name: _____

Title: _____

EXHIBIT A – SCOPE OF WORK SALES TAX COMPLIANCE REVIEW

Objectives and Methods

CONSULTANT's Sales/Use Tax Compliance Review is designed to assist CITY in enhancing its sales/use tax revenues by detecting, documenting, and correcting sales/use tax errors thereby producing previously unrealized revenue for CITY.

Scope of Work

In providing the Sales/Use Tax Compliance Review, CONSULTANT shall:

- Meet with CITY's designated staff to review service objectives, scope, procedures, coordination of effort, work plan schedule, public relations, and logistical matters.
- Establish an appropriate liaison with the CITY and define logical checkpoints for reviewing progress.
- Perform a review of the CITY's businesses' sales/use tax remittances in an effort to ensure proper application of local sales/use tax law and achieve past and/or prospective compliance, as applicable.
- On behalf of the CITY, CONSULTANT will assist the businesses, as necessary, in the preparation and filing of amended returns and/or reallocation requests with the Comptroller's office in order to gain compliance. CONSULTANT and/or the CITY may also provide additional documentation to the Comptroller's office to request its assistance in gaining compliance from taxpayers as needed.

Deliverables

Progress Reports

CONSULTANT will provide periodic progress reports to CITY in the form of status updates. CONSULTANT's progress reports will identify errors detected, documented and corrected.

CITY Assistance

CITY shall assist CONSULTANT by providing information and assistance necessary to perform the Sales/Use Tax Compliance Review to include, without limitation, the following:

- Providing CONSULTANT historical sales/use tax information including but not limited to confidentiality reports previously received from the Comptroller for past periods, if available.
- Issuing necessary documentation to the Comptroller to allow CONSULTANT to access and receive detailed confidentiality reports on an on-going monthly basis.
- Providing a letter of introduction identifying CONSULTANT as an authorized agent of the CITY to perform the Sales/Use Tax Compliance Review and to receive and examine taxpayer records necessary to assure sales/use tax compliance.
- Pursuing in good faith corrective action on errors detected by CONSULTANT.
- Issuing necessary documentation to the Comptroller to correct errors validated by CONSULTANT.

The parties agree that the CITY and/or the Comptroller retain exclusive authority and responsibility to administer, interpret and enforce the CITY's sales/use tax, recognizing that CONSULTANT's role is limited to employing its unique expertise and proprietary tools for: i) detecting and documenting errors by taxpayers in the application, calculation, collection, and/or remittance of sales/use taxes and, ii) providing CITY with technical assistance, without assuming or being delegated the authority or responsibility of CITY to administer, interpret, and enforce its sales/use taxes.

SALES/USE TAX ANALYSIS & REPORTING SERVICE PACKAGE (STARS)

Scope of Work

1. Stars Reports. Within thirty (30) days of receipt of monthly and/or quarterly sales tax data from the applicable governmental authorities, CONSULTANT shall provide CITY with electronic access (Online Report Platform) to updated STARS Reports.

1.1 General Reporting Contents. The STARS Reports are dependent on availability of data received from applicable governmental authorities. The online STARS Reports allow CITY's staff to interact with sales tax data from the permit level to citywide level; on a cash or economic basis; by month, quarter, or year; and by classification grouping include economic category and segment. The STARS Reports provide CITY with access to sales and use tax data online and via mobile devices. In addition, reports can be exported to Microsoft Excel or Adobe PDF formats. The reports available may include:

- A monthly Cash Dashboard.
- A monthly Economic Dashboard.
- A monthly Economic Change Report.
- A monthly Cash Report
- A business look-up report.
- A Taxpayer Ranking Report.
- Geo-Areas.

1.2 Sales Tax Forecast. CONSULTANT also provides a Sales Tax Forecast that identifies historical sales tax and projected sales tax for pessimistic, most likely and optimistic scenarios.

1.3 Accuracy. The STARS Reports rely on information provided by applicable governmental authorities and third-parties. CONSULTANT has no obligation to verify, remove redundancies, or otherwise clean or standardize the information provided by state authorities or any third parties.

1.4 Timing. CONSULTANT's obligation to provide the STARS Reports is conditioned on CITY's delivery of required, signed documentation to CONSULTANT to access the proper data from the applicable governmental authorities.

CITY Assistance

1. Confidentiality. The information provided to the CITY in the STARS Reports is confidential. It is not open to public inspection. A CITY may use the information only for lawfully permitted purposes. (Tex. Tax Code §321.3022(f)). Unauthorized distribution of confidential information by an officer or employee of a government agency is punishable by 6 months in jail and a \$1,000 fine (Tex. Govt. Code § 552.352). CITY shall not use the STARS Reports for any purpose other than economic forecasting and shall not distribute the STARS Reports to any person unless that person is legally entitled to access the information in the STARS Reports, or except as may otherwise be required by law or court order.

2. Data. In order for us to provide the STARS reports the CITY will need to deliver to CONSULTANT annually the signed documents required to access the proper data from the State Comptroller.

3. Additional Terms.

a. License. CONSULTANT grants to CITY a license for each of CITY's designated users to access the New STARS reports service for so long as this Agreement is in effect. Each of CITY's designated users must be submitted in writing to CONSULTANT. CONSULTANT will provide the user with the necessary log-in information. Any passwords issued for this service may only be used by the person to whom the password is issued; sharing of passwords is STRICTLY PROHIBITED. CITY has the obligation to protect those passwords.

b. Limitations of Liability. CONSULTANT is not responsible for any breach of data resulting from CITY's failure to protect passwords or systems used to access the Service. CONSULTANT does not warrant that the service is error free. CONSULTANT disclaims all other warranties with respect to the software, either express or implied, including but not limited to implied warranties of merchantability, fitness for a particular purpose and non-infringement of third party rights. Some jurisdictions do not allow the exclusion of implied warranties or limitations of how long an implied warranty may last, or the exclusion of limitation of incidental damages, so the above limitations or exclusions may not apply to CITY. In no event shall CONSULTANT or

its licensors, suppliers, or licensees be liable to CITY for any consequential, special, incidental, or indirect damages of any kind arising out of the performance or use of the service, even if CONSULTANT has been advised of the possibility of such damages.

c. **Non-disclosure.** CITY's use of the New STARS services is conditioned on CITY's agreement not to make the service or any of output of the system available to CONSULTANT's competitors. Nothing in this provision prohibits the CITY from exporting data and formatting it for its own use or from making documents marked as 'public' known to the public.

PROPRIETARY and CONFIDENTIAL

EXHIBIT B – COMPENSATION SALES TAX COMPLIANCE REVIEW

Provided that the Effective Date is on or before September 1, 2018 in exchange for CONSULTANT performing the work indicated above, the CITY will pay CONSULTANT as follows:

CITY shall pay CONSULTANT an annual minimum fee of \$3,500 for the sales tax compliance review services described in this Agreement. The annual minimum fee is payable upon execution of this Agreement and on each subsequent anniversary date of this Agreement.

The CITY shall pay CONSULTANT a 35% contingency fee. The fee applies to the sales and use tax revenue received by the CITY from correction of taxpayer reporting errors detected and documented by the Sales Tax Compliance Review. The Contingency Fee applies to both: (a) past compliance (as applicable) -- sales and use tax revenues received by the CITY from prior periods; and (b) prospective compliance (as applicable) -- incremental increase in sales and use tax revenues received for the first eight consecutive reporting quarters (24 months) following correction of the errors and confirmation of receipt of revenue by the CITY. An incremental increase is calculated as the current month's correct tax remittance less the monthly average of the prior 12 months immediately prior to the first month of correct tax remittance.

CONSULTANT will invoice CITY quarterly based on past and/or prospective compliance secured on behalf of CITY. Invoices are due and payable upon receipt.

All expenses incurred by CONSULTANT in providing the Sales Tax Compliance Review are the sole and exclusive responsibility of CONSULTANT, except those expenses that receive prior written approval by CITY.

Discount

If CITY contracts for CONSULTANT'S STARS service at the same time as it contracts for the Sales Tax Compliance Review, and for so long as the CITY maintains both services, CONSULTANT will waive the annual minimum fee for the Sales Tax Compliance Review.

Completion of Services

Notwithstanding anything else in this Agreement to the contrary, the CITY will pay CONSULTANT per the terms of this Agreement for services begun before termination or expiration of the Agreement even if the monies are received after termination or expiration. CONSULTANT will provide CITY with a list of accounts submitted but not yet corrected as of the expiration or termination within a reasonable time after the expiration or termination ("completion list"). CONSULTANT is allowed to continue working those accounts on the completion list for a reasonable time to obtain a correction.

Additional Consulting

CITY may request that CONSULTANT provide additional consulting services at any time during the term of this Agreement. If CONSULTANT and CITY agree on the scope of the additional consulting services requested, then CONSULTANT shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, standard hourly rates range from \$75 per hour to \$200 per hour. These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred.

SALES/USE TAX ANALYSIS & REPORTING SERVICE PACKAGE (STARS)

Base Package Annual fee. For the STARS Reports, CITY shall pay CONSULTANT an annual fee of \$6302 per year ("annual fee"). CITY shall pay the annual fee in four equal quarterly payments of \$1575.50. Included in the annual fee are the Quarterly STARS Reports, the Monthly Cash Report, and Sales Tax Forecast.

- 1. Invoicing.** CONSULTANT will invoice the CITY on a quarterly basis in sequence with the production of the Quarterly STARS Reports. Invoices are due and payable within thirty (30) days of receipt. The CITY shall pay the quarterly payment even if CONSULTANT does not provide a STARS Reports due to any failure by a state authority to provide the data necessary to generate a STARS Reports. If this Agreement is terminated for any reason, the CITY remains obligated to pay CONSULTANT the quarterly payments of the annual fee for the quarters before the effective date of termination and for one quarter after the effective date of termination.

2. **Adjustments.** CONSULTANT will adjust the Base Package Annual Fee and any of the optional fees at the beginning of each calendar year by the percentage change in the Consumer Price Index that pertains to CITY's particular geographic area as reported by the Bureau of Labor Statistics. Each Annual Fee adjustment shall not be less than one percent (1%) or greater than five percent (5%).
3. **Additional Geo Area reports.** Upon CITY's request, CONSULTANT will provide additional Geo Area reports for a one-time set-up fee of \$1,000 per geo area and \$500 annual fee per Geo Area. At any time, the CITY may request changes in the Geo Areas for an additional one-time fee of \$500 per Geo Area. If the addresses in the permit file have not been standardized thru CONSULTANT Sales Tax Compliance Review service, CITY shall pay an additional one-time setup fee of \$750 for address standardization. The CITY requests # _____ Geo Area reports be provided along with the quarterly STARS Reports.
4. **Additional Consulting.** CITY may request that CONSULTANT provide additional consulting services at any time during the term of this Agreement. If CONSULTANT and CITY agree on the scope of the additional consulting services requested, then CONSULTANT shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, standard hourly rates range from \$75 per hour to \$200 per hour. These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred.

PROPRIETARY and CONFIDENTIAL

EXHIBIT C
CONSULTANT Helpful Contacts

Contact	Project Role	Phone	Email
Brenda Anderson	Client Services Manager	817.771.4066	brenda.anderson@muniservices.com
Patrick Scott	Senior Vice President	856.272.7483	Patrick.scott@muniservices.com
Chris Yeary, CPA	VP, Sales & Use Tax Audit	972.447.4953	chris.yeary@muniservices.com
Irene Reynolds	Client Relations Manager	559.271.6867	irene.reynolds.@muniservices.com
Jaimie Lewis	Billing Department	571.485.7875	billing@muniservices.com
Francesco Mancia, MBA	VP Government Relations	559.288.7296	fran.mancia@muniservices.com
Patricia A. Dunn, MSHR	Contracts Manager	559.271.6852	patricia.dunn@muniservices.com

PROPRIETARY and CONFIDENTIAL



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1883	
From:			
Subject: Discussion and consideration to approve Resolutions 2018-47, 2018-48, 2018-49, 2018-50, and 2018-51 appointing members to the Citizen's Drainage Committee and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)			
Background: As proposed, this Citizens' Drainage Committee will consist of seven members, one nominated by each Commission member, all residents of Weslaco. Randy Hall and Sandra Reyna were appointed from Districts 1 and 4.			
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		Created/Initiated	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Approve.			
Attachments, if any: 16 Bd Appt, Applicants and members for WCDTF 81618, R2018-47 Weslaco Drainage Citizens' Task Force, R2018-48 Weslaco Drainage Citizens' Task Force, R2018-49 Weslaco Drainage Citizens' Task Force, R2018-50 Weslaco Drainage Citizens' Task Force, R2018-51 Weslaco Drainage Citizens' Task Force			
Responsibilities upon Approval: Execute, retain and notify appointees.			

City of Weslaco Boards and Committees
Prepared by Office of the City Secretary; Updated August 2016

Proposed City Charter Updates August 2020																		
Member Qualifications											Defined Duties							
	character	citizenship	residency	age	public officer	taxpayer/property owner	qualified voter	management experience	subject interest	no litigation	# members	# quorum	term length (st = staggered)	term limits	meeting schedule	designated final authority	governing statutes	appointing authority
Adjustments & Appeals to Zoning Ordinance						X					5		2yr				Sec 150-19	CC
Adjustments & Appeals to Building Codes											7	4	4yr		reg interval	X	Art IX Sec 280-283	CC
Ambulance Advisory Board											7	4	2yr		min. 3 mths		Art I, Sec 14-1	CC
Animal Shelter Advisory Committee		X									5*				3/year		Ord 2012-02	CC
Civil Service Commission	X	X	>3yr	>25	>3yr					X	3	2	st3yr	3*	72hr notice		Ch 143	appt by Chief Exec, confirm by CC
Economic Development Corporation	X	X	X					X			7	4		2*	monthly		Bylaws, Art of Inc	7 at large; confirm by CC
Hotel Occupancy Tax Advisory Committee					no						5	3	3yr		2/year		Ord 2015-09	CC
Housing Authority Board											7		2yr	2			LGC Sec 392.033	appt by Mayor
Library Board											5		2yr				Art II Sec 78.21-28	CC
Parks & Recreation Advisory Board											7		3yr				Art IV Sec 98	CC
Planning & Zoning Commission		X	X			X	X				7		3yr				Art III Sec 2.98-103	CC
Public Facilities & Transportation Improvements Naming Committee		X	X	X							7		st3yr				Ord 2011-16	CC
																	Art 1528j, Vernons	
Weslaco Health Facilities Development Corporation											3+		6 yrs				TX Civil Statue	CC
Weslaco Mid-Valley Airport Committee											7		st3yr				Art II Sec 6-33	CC
Weslaco 100		X	X								16		3yrs				R2013-52	CC



Application for Service

City of Weslaco Boards and Committees

Name of Applicant:		Telephone Number:	
E-Mail Address:		Alternate Phone Number (work/cell):	
Home Address:		☐ Inside City Limits ☐ Outside City Limits	
City:	State:	Zip Code:	
How many years have you lived at this residence?		Do you own this house? ☐ Yes or ☐ No	
Preference for consideration, naming committees on which you desire to serve: 1.) 2.) 3.)			
List of Civic Involvement and Business Experience:			
Have you been bonded or eligible to obtain one? ☐ Yes or ☐ No		Are you currently suing or being sued by the City of Weslaco or any of its entities? ☐ Yes or ☐ No	
Are you related to any member of the Commission? ☐ Yes or ☐ No		If so, who and how?	
Have you previously served on a City board? ☐ Yes or ☐ No		If so, which and when?	
Have you ever been elected to public office? ☐ Yes or ☐ No		If so, which and when?	
Do you consent to release this info to the public? ☐ Yes or ☐ No		Are you age 25 or older? ☐ Yes or ☐ No	
The statements I have made on this Application for Service are truthful and I am not disqualified to serve due to nepotism, City of Weslaco Charter or Ordinances or State of Texas laws.		Timestamp of Receipt:	
Applicant's Signature:			
Optional Demographic Information: Self Identification			
Gender:			
Age:			
Race:			
Religion:			
Citizenship:			

RESOLUTION NO. 2014-62

STATE OF TEXAS § RESOLUTION ESTABLISHING A SCREENING,
 APPOINTMENT, CONFIRMATION AND
COUNTY OF § ATTENDANCE POLICY FOR SERVICE ON
HIDALGO CITY OF WESLACO BOARDS, COMMISSIONS,
 § AUTHORITIES AND COMMITTEES
CITY OF WESLACO

WHEREAS, The City of Weslaco has Standing Committees, Boards, Authorities and Commissions (hereafter called “Boards”) that assist and recommend to the Weslaco City Commission programs and projects that benefit the citizens of Weslaco; and

WHEREAS, The Weslaco City Commission (hereafter called “Commission”) also periodically creates *Ad Hoc* Boards to assist the City of Weslaco in addressing unexpected issues, projects or concerns; and

WHEREAS, The Commission desires the best qualified individuals on these Boards to represent a diverse cross section of the citizens of Weslaco.

NOW THEREFORE BE IT RESOLVED THAT The Weslaco City Commission hereby adopts the following Policy for the screening, appointment and confirmation of individuals to serve on the various Boards.

A. Screening

Interested individuals shall submit to the City Secretary a Board application which will contain: 1) contact and demographic data; and 2) educational, professional, civic and other relevant credentials. This application will be kept on file until the end of the fiscal year in which it was submitted, ending on September 30.

Individuals shall confirm receipt the City’s diversity, affirmative action, nepotism, ethics policies; the Board’s mission, duties and responsibilities as established by Ordinance or other order; and other relevant documents. Individuals must agree to abide by Weslaco City Charter and applicable Ordinances, and state and federal laws.

B. Appointment

The City Manager may recommend the best qualified individuals to the City Commission. The Commission will attempt to appoint the best qualified individuals that will fairly represent the demographic characteristics of Weslaco.

To ensure greater public participation, individuals shall not serve concurrently on more than one Board, unless the Commission makes an exemption.

The Commission shall make fair and deliberative appointments that comply with the Weslaco City Charter and applicable Ordinances, and state and federal laws.

C. Confirmation

Prior to appointment by the Commission, individuals should confirm that they remain interested in serving on a particular Board by either: 1) attending the Commission meeting which has the item on the Commission's Agenda; or 2) submitting a written statement of interest to the Mayor.

D. Attendance

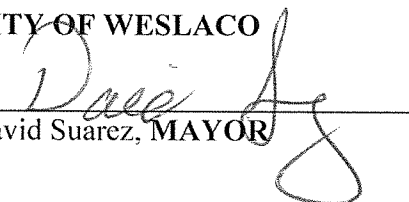
Three absences, not limited to consecutive, from any board or committee as appointed is established as just cause for removal and replacement by the Commission.

E. Qualification

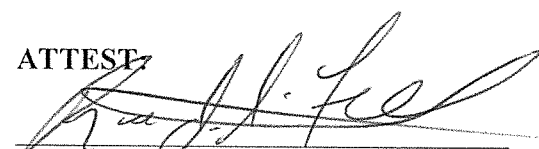
Individuals that have pending litigation against the City of Weslaco or any of its entities shall not be eligible for an appointment to City of Weslaco Committees, Boards, Authorities and Commissions.

PASSED AND APPROVED on this 2nd day of December, 2014.

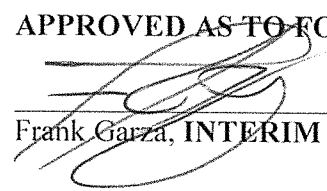
CITY OF WESLACO


David Suarez, MAYOR

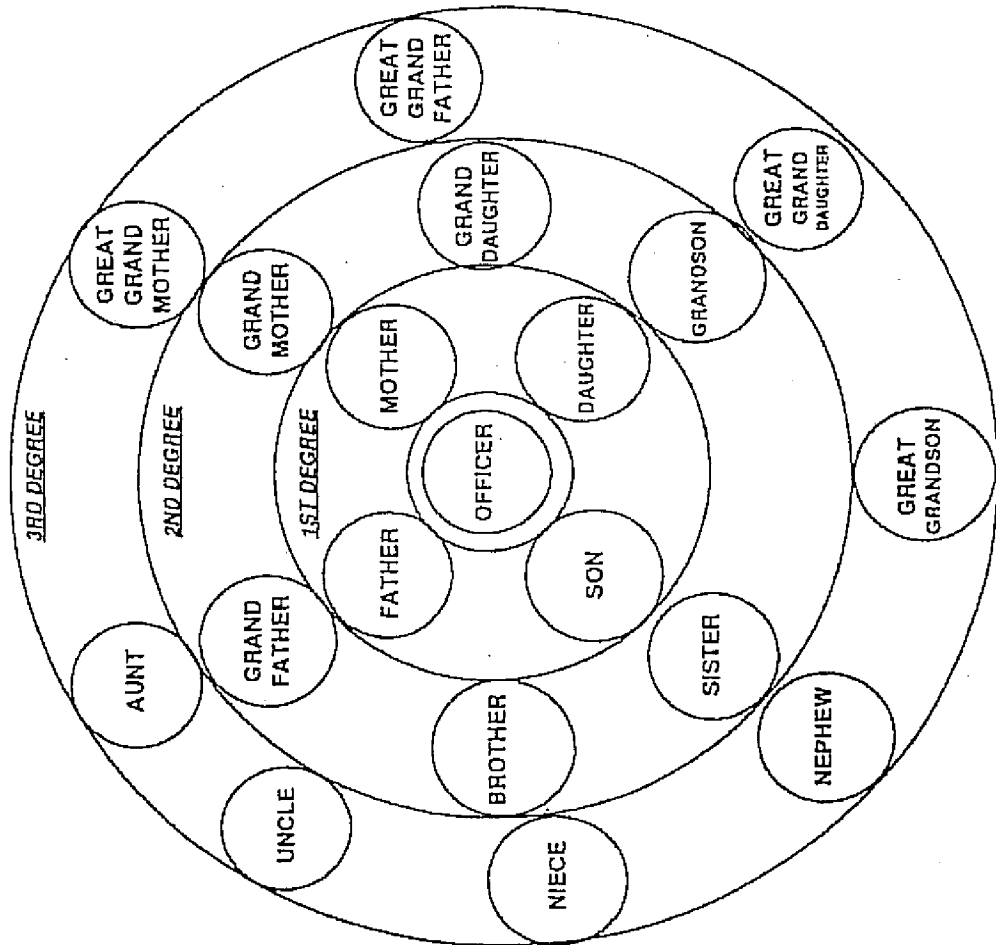
ATTEST

 wcc 12/2/14
Rebekah de la Fuente, INTERIM CITY SECRETARY

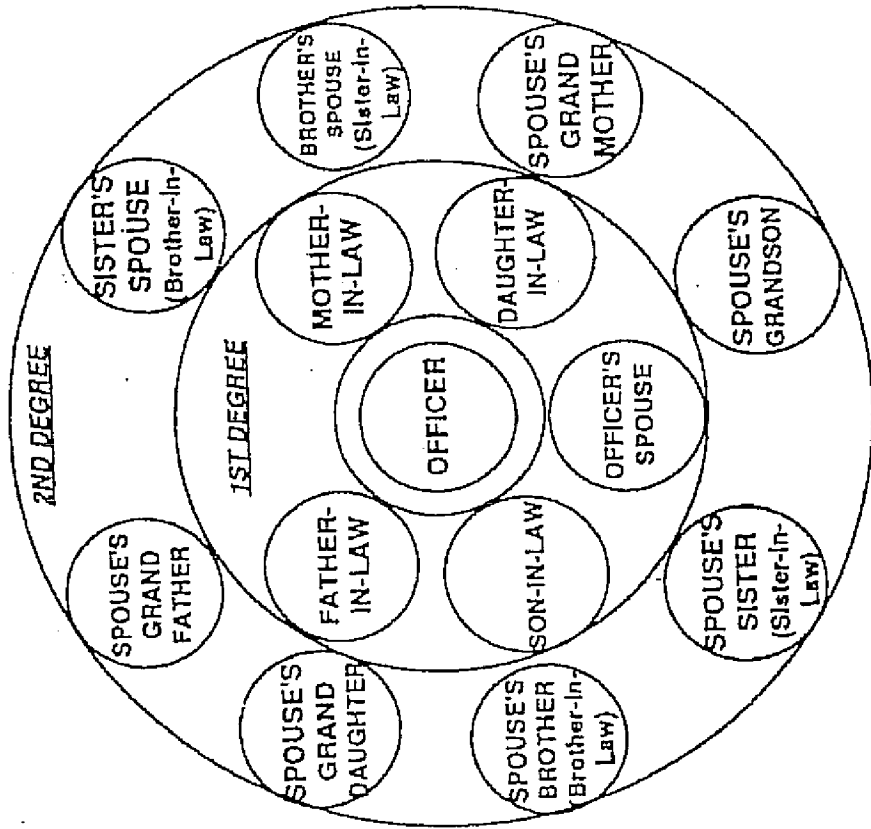
APPROVED AS TO FORM:


Frank Garza, INTERIM CITY ATTORNEY

TEXAS NEPOTISM 1992



Consanguinity Kinship Chart
(Blood)



Affinity Kinship Chart
(Marriage)

WESLACO CITIZENS DRAINAGE TASK FORCE

Date Appointed	Term	First Name	Last Name	Physical Address
8/7/2018	1 year	Sandra	Reyna	217 S. Pat Cannon
8/7/2018	1 year	Randy L.	Hall	1400 El Paseo Dr.

RESOLUTION NO. 2018-47

**A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD
HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE
WESLACO DRAINAGE CITIZENS' TASK FORCE**

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT _____ is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on _____ day of _____, 20____.

PASSED AND APPROVED on this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

RESOLUTION NO. 2018-48

**A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD
HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE
WESLACO DRAINAGE CITIZENS' TASK FORCE**

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT _____ is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on _____ day of _____, 20____.

PASSED AND APPROVED on this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

RESOLUTION NO. 2018-49

**A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD
HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE
WESLACO DRAINAGE CITIZENS' TASK FORCE**

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

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NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT _____ is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on _____ day of _____, 20____.

PASSED AND APPROVED on this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

RESOLUTION NO. 2018-50

**A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD
HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE
WESLACO DRAINAGE CITIZENS' TASK FORCE**

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT _____ is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on _____ day of _____, 20____.

PASSED AND APPROVED on this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

RESOLUTION NO. 2018-51

**A RESOLUTION OF THE CITY OF WESLACO ESTABLISHING AN AD
HOC CITIZENS' COMMITTEE THAT SHALL BE DESIGNATED AS THE
WESLACO DRAINAGE CITIZENS' TASK FORCE**

WHEREAS, This Commission finds merit in establishing an ad hoc citizens' committee to solicit suggestions, make recommendations, and review progress toward the planning and implementing of infrastructure improvements for City-wide detention and drainage of floodwaters; and

WHEREAS, as it is intended to serve ad hoc, the work of this Committee shall be limited to one year from establishment; and

WHEREAS, there shall be seven (7) members in the Weslaco Drainage Citizens' Task Force who shall be nominated one by each Commission member and approved by the whole Weslaco City Commission; and

WHEREAS, members shall be residents of the City of Weslaco, serve without compensation, and may be eligible for reappointment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT _____ is appointed to serve on the Weslaco Drainage Citizen's Task Force and the term will expire on _____ day of _____, 20____.

PASSED AND APPROVED on this 21st day of August 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1911	
From:			
Subject: Discussion and consideration after Public Hearing to schedule a record vote September 4 and September 18, 2018 regarding the City of Weslaco proposed budget for Fiscal Year 2018--2019. Possible action. (Staffed by Finance Department.)			
Background: Section 102.007 of the Texas Local Government Code requires that after the Public Hearing on the proposed budget, "the governing body of the municipality shall take action on the proposed budget." This does not necessarily mean that the budget must be adopted, but the action can be to announce the dates when the 2018-2019 budget will be voted on, which are September 4th for first reading and September 18th for second reading. THIS DOES NOT HAVE TO BE A RECORD VOTE.			
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):			
Elizabeth Walker		Created/Initiated	
Mary Barrera		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Recommend that dates of budget adoption be announced as scheduled.			
Attachments, if any:			
Responsibilities upon Approval:			



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1891	
From:			
Subject: Discussion and consideration to approve Ordinance 2018-24 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. First reading of Ordinance 2018-24. Possible action. (Staffed by Finance Department.)			
Background: Republic Services submitted their annual CPI adjustment in the amount of 3.13% increase to all residential and commercial rates for garbage and brush. I reviewed the fees that we charge to the customers and there are a small number of commercial size container fees that are less than what the Republic Services fees are. In other words, we are losing money on these sizes. I propose to set a rate for these sizes that will cover the Republic fee with a margin of only 1%, just so that we are not losing on these fees.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: 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):			
Mary Barrera		Created/Initiated	
Mary Barrera		Approved	
Mike Perez		Final Approval	
City Manager Comments:			
Staff Recommendation: Recommend approval.			
Attachments, if any: Rep Svc ltr 8-1-18 CPI 3.13%, Garbage rates comparison-Fee increase August 2018, Garbage rates PROPOSED increase August 2018, O2018-24 amend gargage rates incr			
Responsibilities upon Approval:			



PO Drawer 1217 La Feria, TX 78559
 o 956.423.7316 f 956.428.2045 republicservices.com

August 1, 2018

Mike Perez, City Manager
 City of Weslaco
 Weslaco, TX 78596

Reference 2018 Consumer Price Index (CPI)

*8/3/18
 May B
 Please review and
 then let's talk
 MRP*

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, 2018.

2018-2019 CPI Calculation

Description	Water Sewer Trash
June-17	224.31
June-17	231.341
Index Change	7.031
Net %Change	3.13%
Effective Change @ 100%	3.13%
Rate % Increase	3.13%
CPI Cap 5.0%	5.00%

Residential Rates 2018-2019

Item	Description	Rates
1	Residential Service twice/week	\$ 9.45
2	Twice/month residential brush/bulky item service	\$ 5.90
3	Overfilled Front Load Container per yard fee	\$ 37.50

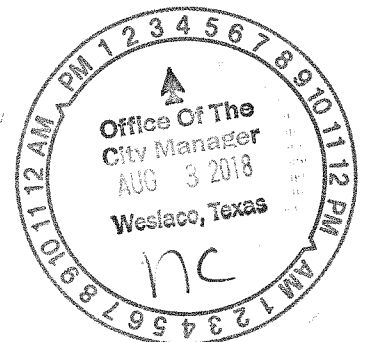
Commercial Rates 2018-2019

Container Size	1 x wk	2 x wk	3 x wk	4 x wk	5 x wk	6 x wk
2 cubic yard	\$ 72.45	\$ 132.81	\$ 193.17	\$ 253.58	\$ 313.92	\$ 372.96
3 cubic yard	\$ 83.73	\$ 153.51	\$ 223.31	\$ 293.10	\$ 362.86	\$ 432.64
4 cubic yard	\$ 94.92	\$ 174.11	\$ 253.30	\$ 332.51	\$ 410.24	\$ 490.93
6 cubic yard	\$ 119.62	\$ 217.64	\$ 315.67	\$ 413.72	\$ 511.73	\$ 609.76
8 cubic yard	\$ 140.27	\$ 257.10	\$ 374.01	\$ 490.87	\$ 607.72	\$ 724.61
30 cubic yard	Haul Rate	\$ 206.14	Tonnage Rate	\$ 44.27	Rental Rate	\$ 5.94

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.



RATE COMPARISON- RATES PER CITY ORDINANCE COMPARED TO RATE WITH REPUBLIC INCLUDING CPI INCREASE AUG-2018

		CITY CHRGS										
		PER		REPUBLIC FEE PER		PERC						
SANITATION REVENUES		ORDINANCE		CONTRACT		NET TO CITY		PROFIT %		CITY		
										REPUBLIC		
										NET		
RESIDENTIAL												
GARBAGE PU 2 TMS WK	8447	\$	15.05	\$	9.45	\$	5.60	37.2%	\$	127,127.35	\$ 79,824.15	\$ 47,303.20
BRUSH PU 2 TMS MO-0-30	1110	\$	10.51	\$	5.90	\$	4.61	43.9%	\$	11,666.10	\$ 6,549.00	\$ 5,117.10
30-60	4147	\$	10.51	\$	5.90	\$	4.61	43.9%	\$	43,584.97	\$ 24,467.30	\$ 19,117.67
60-90	1335	\$	13.50	\$	5.90	\$	7.60	56.3%	\$	18,022.50	\$ 7,876.50	\$ 10,146.00
90+	750	\$	15.95	\$	5.90	\$	10.05	63.0%	\$	11,962.50	\$ 4,425.00	\$ 7,537.50
COMMERCIAL												
2CY												
1X	49	\$	68.04	\$	72.45	\$	(4.41)	-6.5%	\$	3,333.96	\$ 3,550.05	\$ (216.09)
2X	6	\$	133.06	\$	132.81	\$	0.25	0.2%	\$	798.36	\$ 796.86	\$ 1.50
3X	0	\$	195.00	\$	193.17	\$	1.83	0.9%	\$	-	\$ -	\$ -
4X	0	\$	254.28	\$	253.58	\$	0.70	0.3%	\$	-	\$ -	\$ -
5X	0	\$	314.88	\$	313.92	\$	0.96	0.3%	\$	-	\$ -	\$ -
6X	0	\$	375.47	\$	372.96	\$	2.51	0.7%	\$	-	\$ -	\$ -
3CY												
1X	124	\$	78.63	\$	83.73	\$	(5.10)	-6.5%	\$	9,750.12	\$ 10,382.52	\$ (632.40)
2X	54	\$	144.13	\$	153.51	\$	(9.38)	-6.5%	\$	7,783.02	\$ 8,289.54	\$ (506.52)
3X	81	\$	209.68	\$	223.31	\$	(13.63)	-6.5%	\$	16,984.08	\$ 18,088.11	\$ (1,104.03)
4X	2	\$	275.20	\$	293.10	\$	(17.90)	-6.5%	\$	550.40	\$ 586.20	\$ (35.80)
5X	3	\$	340.70	\$	362.86	\$	(22.16)	-6.5%	\$	1,022.10	\$ 1,088.58	\$ (66.48)
6X	2	\$	406.24	\$	432.64	\$	(26.40)	-6.5%	\$	812.48	\$ 865.28	\$ (52.80)
4CY												
1X	98	\$	90.24	\$	94.92	\$	(4.68)	-5.2%	\$	8,843.52	\$ 9,302.16	\$ (458.64)
2X	49	\$	173.25	\$	174.11	\$	(0.86)	-0.5%	\$	8,489.25	\$ 8,531.39	\$ (42.14)
3X	34	\$	255.60	\$	253.30	\$	2.30	0.9%	\$	8,690.40	\$ 8,612.20	\$ 78.20
4X	3	\$	336.28	\$	332.51	\$	3.77	1.1%	\$	1,008.84	\$ 997.53	\$ 11.31
5X	4	\$	418.96	\$	410.24	\$	8.72	2.1%	\$	1,675.84	\$ 1,640.96	\$ 34.88
6X	4	\$	501.63	\$	490.93	\$	10.70	2.1%	\$	2,006.52	\$ 1,963.72	\$ 42.80
6CY												
1X	47	\$	131.87	\$	119.62	\$	12.25	9.3%	\$	6,197.89	\$ 5,622.14	\$ 575.75
2X	30	\$	240.57	\$	217.64	\$	22.93	9.5%	\$	7,217.10	\$ 6,529.20	\$ 687.90
3X	17	\$	316.20	\$	315.67	\$	0.53	0.2%	\$	5,375.40	\$ 5,366.39	\$ 9.01
4X	3	\$	415.01	\$	413.72	\$	1.29	0.3%	\$	1,245.03	\$ 1,241.16	\$ 3.87
5X	7	\$	513.81	\$	511.73	\$	2.08	0.4%	\$	3,596.67	\$ 3,582.11	\$ 14.56
6X	0	\$	611.31	\$	609.76	\$	1.55	0.3%	\$	-	\$ -	\$ -
8CY												
1X	51	\$	155.08	\$	140.27	\$	14.81	9.5%	\$	7,909.08	\$ 7,153.77	\$ 755.31
2X	43	\$	284.03	\$	257.10	\$	26.93	9.5%	\$	12,213.29	\$ 11,055.30	\$ 1,157.99
3X	47	\$	357.48	\$	374.01	\$	(16.53)	-4.6%	\$	16,801.56	\$ 17,578.47	\$ (776.91)
4X	7	\$	492.73	\$	490.87	\$	1.86	0.4%	\$	3,449.11	\$ 3,436.09	\$ 13.02
5X	10	\$	610.01	\$	607.72	\$	2.29	0.4%	\$	6,100.10	\$ 6,077.20	\$ 22.90
6X	5	\$	724.24	\$	724.61	\$	(0.37)	-0.1%	\$	3,621.20	\$ 3,623.05	\$ (1.85)
									\$ 357,838.74	\$ 269,101.93	\$ 88,736.81	

RATE COMPARISON- PROPOSED RATES COMPARED TO RATE WITH REPUBLIC INCLUDING CPI INCREASE AUG-2018

SANITATION REVENUES		PROPOSED CHANGES TO CHARGES	REPUBLIC FEE PER CONTRACT	NET TO CITY	PERC PROFIT %	CITY	REPUBLIC	NET
RESIDENTIAL								
GARBAGE PU 2 TMS WK	8447	\$ 15.05	\$ 9.45	\$ 5.60	37.2%	\$ 127,127.35	\$ 79,824.15	\$ 47,303.20
BRUSH PU 2 TMS MO-0-30	1110	\$ 10.51	\$ 5.90	\$ 4.61	43.9%	\$ 11,666.10	\$ 6,549.00	\$ 5,117.10
30-60	4147	\$ 10.51	\$ 5.90	\$ 4.61	43.9%	\$ 43,584.97	\$ 24,467.30	\$ 19,117.67
60-90	1335	\$ 13.50	\$ 5.90	\$ 7.60	56.3%	\$ 18,022.50	\$ 7,876.50	\$ 10,146.00
90+	750	\$ 15.95	\$ 5.90	\$ 10.05	63.0%	\$ 11,962.50	\$ 4,425.00	\$ 7,537.50
COMMERCIAL								
2CY								
1X	49	\$ 73.18	\$ 72.45	\$ 0.73	1.0%	\$ 3,585.82	\$ 3,550.05	\$ 35.77
2X	6	\$ 133.06	\$ 132.81	\$ 0.25	0.2%	\$ 798.36	\$ 796.86	\$ 1.50
3X	0	\$ 195.00	\$ 193.17	\$ 1.83	0.9%	\$ -	\$ -	\$ -
4X	0	\$ 254.28	\$ 253.58	\$ 0.70	0.3%	\$ -	\$ -	\$ -
5X	0	\$ 314.88	\$ 313.92	\$ 0.96	0.3%	\$ -	\$ -	\$ -
6X	0	\$ 375.47	\$ 372.96	\$ 2.51	0.7%	\$ -	\$ -	\$ -
3CY								
1X	124	\$ 84.57	\$ 83.73	\$ 0.84	1.0%	\$ 10,486.68	\$ 10,382.52	\$ 104.16
2X	54	\$ 155.05	\$ 153.51	\$ 1.54	1.0%	\$ 8,372.70	\$ 8,289.54	\$ 83.16
3X	81	\$ 225.54	\$ 223.31	\$ 2.23	1.0%	\$ 18,268.74	\$ 18,088.11	\$ 180.63
4X	2	\$ 296.03	\$ 293.10	\$ 2.93	1.0%	\$ 592.06	\$ 586.20	\$ 5.86
5X	3	\$ 366.49	\$ 362.86	\$ 3.63	1.0%	\$ 1,099.47	\$ 1,088.58	\$ 10.89
6X	2	\$ 436.97	\$ 432.64	\$ 4.33	1.0%	\$ 873.94	\$ 865.28	\$ 8.66
4CY								
1X	98	\$ 95.87	\$ 94.92	\$ 0.95	1.0%	\$ 9,395.26	\$ 9,302.16	\$ 93.10
2X	49	\$ 175.85	\$ 174.11	\$ 1.74	1.0%	\$ 8,616.65	\$ 8,531.39	\$ 85.26
3X	34	\$ 255.60	\$ 253.30	\$ 2.30	0.9%	\$ 8,690.40	\$ 8,612.20	\$ 78.20
4X	3	\$ 336.28	\$ 332.51	\$ 3.77	1.1%	\$ 1,008.84	\$ 997.53	\$ 11.31
5X	4	\$ 418.96	\$ 410.24	\$ 8.72	2.1%	\$ 1,675.84	\$ 1,640.96	\$ 34.88
6X	4	\$ 501.63	\$ 490.93	\$ 10.70	2.1%	\$ 2,006.52	\$ 1,963.72	\$ 42.80
6CY								
1X	47	\$ 131.87	\$ 119.62	\$ 12.25	9.3%	\$ 6,197.89	\$ 5,622.14	\$ 575.75
2X	30	\$ 240.57	\$ 217.64	\$ 22.93	9.5%	\$ 7,217.10	\$ 6,529.20	\$ 687.90
3X	17	\$ 316.20	\$ 315.67	\$ 0.53	0.2%	\$ 5,375.40	\$ 5,366.39	\$ 9.01
4X	3	\$ 415.01	\$ 413.72	\$ 1.29	0.3%	\$ 1,245.03	\$ 1,241.16	\$ 3.87
5X	7	\$ 513.81	\$ 511.73	\$ 2.08	0.4%	\$ 3,596.67	\$ 3,582.11	\$ 14.56
6X	0	\$ 611.31	\$ 609.76	\$ 1.55	0.3%	\$ -	\$ -	\$ -
8CY								
1X	51	\$ 155.08	\$ 140.27	\$ 14.81	9.5%	\$ 7,909.08	\$ 7,153.77	\$ 755.31
2X	43	\$ 284.03	\$ 257.10	\$ 26.93	9.5%	\$ 12,213.29	\$ 11,055.30	\$ 1,157.99
3X	47	\$ 377.75	\$ 374.01	\$ 3.74	1.0%	\$ 17,754.25	\$ 17,578.47	\$ 175.78
4X	7	\$ 492.73	\$ 490.87	\$ 1.86	0.4%	\$ 3,449.11	\$ 3,436.09	\$ 13.02
5X	10	\$ 610.01	\$ 607.72	\$ 2.29	0.4%	\$ 6,100.10	\$ 6,077.20	\$ 22.90
6X	5	\$ 731.86	\$ 724.61	\$ 7.25	1.0%	\$ 3,659.30	\$ 3,623.05	\$ 36.25
						\$ 362,551.92	\$ 269,101.93	\$ 93,449.99

ORDINANCE 2018-24

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	73.18	133.06	195.00	254.28	314.88	375.47
3	84.57	155.05	225.54	296.03	366.49	436.97
4	95.87	175.85	255.60	336.28	418.96	501.63
6	131.87	240.57	316.20	415.01	513.81	611.31
8	155.08	284.03	377.75	492.73	610.01	731.86

30 Cubic yard will be charged \$162.64 per haul plus \$32.29 per ton for disposal plus \$4.90 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 21st day of August 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission
this ____ day of ____ 2018 .

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1904	
From:			
Subject: Discussion and consideration to approve Ordinance 2018-25 authorizing the assessment of a Municipal Court Building Security Fee in the amount of \$3.00 against all Defendants convicted of a misdemeanor offense by the Municipal Court. First Reading of Ordinance 2018-25. Possible action. (Staffed by Municipal Court.)			
Background: As of September 2017, Senate Bill No. 42 was implemented and entails that all Municipal Courts in the State of Texas are to have a Court Security Personal/Officers. There is a Court Security Fund that can be implement to offset the cost of the personal that could be hired for this position in the future. The ordinance allows a fee of \$3.00 to be added to new violations upon approval. The court security fund also allows us to purchase court security hardware/devices to better secure the Courtroom.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature 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:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Elizabeth Walker		Created/Initiated	
Rosa Huerta		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any: SB00042F, Summary_Legislative_Update17, O2018-25 municipal court security fund fee			
Responsibilities upon Approval: Once this ordinance is approved, a \$3.00 fee will added to all new class c misdemeanor.			

AN ACT

relating to the security of courts and judges in the state;
establishing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Judge Julie Kocurek
Judicial and Courthouse Security Act of 2017.

SECTION 2. Article 102.017(f), Code of Criminal Procedure,
is amended to read as follows:

(f) The sheriff, constable, or other law enforcement agency
or entity that provides security for a court [A—local
administrative judge] shall provide to the Office of Court
Administration of the Texas Judicial System a written report
regarding any security incident involving court security that
occurs in or around a building housing a court for which the
sheriff, constable, agency, or entity provides security [judge
serves as local administrative judge] not later than the third
business day after the date the incident occurred. A copy of the
report must be provided to the presiding judge of the court in which
the incident occurred. The report is confidential and exempt from
disclosure under Chapter 552, Government Code.

SECTION 3. Subchapter A, Chapter 29, Government Code, is
amended by adding Section 29.014 to read as follows:

Sec. 29.014. COURT SECURITY COMMITTEE. (a) The presiding
or municipal judge, as applicable, shall establish a court security

committee composed of:

(1) the presiding or municipal judge, or the judge's designee;

(2) a representative of the law enforcement agency or other entity that provides the primary security for the court;

(3) a representative of the municipality; and

(4) any other person the committee determines necessary to assist the committee.

(b) The person described by Subsection (a)(1) serves as presiding officer of the committee.

(c) The committee shall establish the policies and procedures necessary to provide adequate security to the municipal courts served by the presiding or municipal judge, as applicable.

(d) A committee may recommend to the municipality the uses of resources and expenditures of money for courthouse security, but may not direct the assignment of those resources or the expenditure of those funds.

SECTION 4. Section 30.00007, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The presiding judge shall:

(1) maintain a central docket for cases filed within the territorial limits of the municipality over which the municipal courts of record have jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the courts;

1 (3) request the jurors needed for cases that are set
2 for trial by jury;

3 (4) temporarily assign judges or substitute judges to
4 exchange benches and to act for each other in a proceeding pending
5 in a court if necessary for the expeditious disposition of business
6 in the courts; ~~and~~

7 (5) supervise and control the operation and clerical
8 functions of the administrative department of each court, including
9 the court's personnel, during the proceedings of the court; and

10 (6) establish a court security committee to adopt
11 security policies and procedures for the courts served by the
12 presiding judge that is composed of:

13 (A) the presiding judge, or the presiding judge's
14 designee, who serves as presiding officer of the committee;

15 (B) a representative of the law enforcement
16 agency or other entity that provides the primary security for the
17 court;

18 (C) a representative of the municipality; and

19 (D) any other person the committee determines
20 necessary to assist the committee.

21 (c) A court security committee may recommend to the
22 governing body the uses of resources and expenditures of money for
23 courthouse security, but may not direct the assignment of those
24 resources or the expenditure of those funds.

25 SECTION 5. Chapter 51, Government Code, is amended by
26 adding Subchapter N to read as follows:

1 SUBCHAPTER N. ADDITIONAL FILING FEE FOR JUDICIAL AND COURT

2 PERSONNEL TRAINING

3 Sec. 51.971. JUDICIAL AND COURT PERSONNEL TRAINING FEE.

4 (a) In addition to other fees authorized or required by law, the
5 clerk of a district court, county court, statutory county court,
6 statutory probate court, or justice court shall collect a \$5 fee on
7 the filing of any civil action or proceeding requiring a filing fee,
8 including an appeal, and on the filing of any counterclaim,
9 cross-action, intervention, interpleader, or third party action
10 requiring a filing fee to be used as provided under Section 56.003.

11 (b) A court may waive payment of a fee due under this section
12 for an individual the court determines is indigent.

13 (c) Fees due under this section shall be collected in the
14 same manner as other fees, fines, or costs in the case.

15 (d) The clerk of a district court, county court, statutory
16 county court, statutory probate court, or justice court shall
17 deposit the court costs and fees collected under this section in the
18 appropriate local treasury and remit the court costs and fees to the
19 comptroller in the manner provided under Subchapter B, Chapter 133,
20 Local Government Code.

21 (e) The comptroller shall deposit the fees received under
22 this section to the credit of the judicial and court personnel
23 training fund established under Section 56.001.

24 (f) The comptroller may audit the records of a county
25 related to costs and fees collected under this section.

26 (g) Money spent from costs and fees collected under this
27 section is subject to audit by the state auditor.

SECTION 6. Section 56.003, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The court of criminal appeals shall grant legal funds to statewide professional associations and other entities that provide training to individuals responsible for providing court security.

SECTION 7. Section 56.004(b), Government Code, is amended to read as follows:

(b) The legislature shall appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to provide for:

(1) continuing legal education, technical assistance, and other support programs for prosecuting attorneys and their personnel, criminal defense attorneys who regularly represent indigent defendants in criminal matters and their personnel, and justices of the peace and their court personnel; ~~and~~

(2) innocence training programs for law enforcement officers, law students, and other participants; and

(3) court security training programs for individuals responsible for providing court security.

SECTION 8. Subchapter B, Chapter 72, Government Code, is amended by adding Sections 72.015 and 72.016 to read as follows:

Sec. 72.015. JUDICIAL SECURITY DIVISION. (a) The office shall establish a judicial security division to provide guidance to state court personnel on improving security for each court.

(b) The office shall appoint a director of security and emergency preparedness to oversee the judicial security division.

1 (c) The judicial security division shall:

2 (1) serve as a central resource for information on
3 local and national best practices for court security and the safety
4 of court personnel;

5 (2) provide an expert opinion on the technical aspects
6 of court security; and

7 (3) keep abreast of and provide training on recent
8 court security improvements.

9 Sec. 72.016. NOTIFICATION PROCEDURE FOR JUDICIAL PRIVACY.
10 The director shall develop a procedure to regularly notify county
11 registrars, the Department of Public Safety, the Texas Ethics
12 Commission, and any other state agency the office determines should
13 be notified of the judges, judges' spouses, and related family
14 members whose personal information must be kept from public
15 records, as provided under Sections 552.117 and 572.035 of this
16 code, Sections 13.0021 and 15.0215, Election Code, and Section
17 521.121, Transportation Code.

18 SECTION 9. Section 74.092, Government Code, is amended to
19 read as follows:

20 Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE. (a) A
21 local administrative judge, for the courts for which the judge
22 serves as local administrative judge, shall:

23 (1) implement and execute the local rules of
24 administration, including the assignment, docketing, transfer, and
25 hearing of cases;

26 (2) appoint any special or standing committees
27 necessary or desirable for court management and administration;

1 (3) promulgate local rules of administration if the
2 other judges do not act by a majority vote;

3 (4) recommend to the regional presiding judge any
4 needs for assignment from outside the county to dispose of court
5 caseloads;

6 (5) supervise the expeditious movement of court
7 caseloads, subject to local, regional, and state rules of
8 administration;

9 (6) provide the supreme court and the office of court
10 administration requested statistical and management information;

11 (7) set the hours and places for holding court in the
12 county;

13 (8) supervise the employment and performance of
14 nonjudicial personnel;

15 (9) supervise the budget and fiscal matters of the
16 local courts, subject to local rules of administration;

17 (10) coordinate and cooperate with any other local
18 administrative judge in the district in the assignment of cases in
19 the courts' concurrent jurisdiction for the efficient operation of
20 the court system and the effective administration of justice;

21 (11) if requested by the courts the judge serves,
22 establish and maintain the lists required by Section 37.003 and
23 ensure appointments are made from the lists in accordance with
24 Section 37.004; ~~and~~

25 (12) perform other duties as may be directed by the
26 chief justice or a regional presiding judge; and

27 (13) establish a court security committee to adopt

security policies and procedures for the courts served by the local administrative district judge that is composed of:

(A) the local administrative district judge, or the judge's designee, who serves as presiding officer of the committee;

(B) a representative of the sheriff's office;

(C) a representative of the county commissioners court;

(D) one judge of each type of court in the county other than a municipal court or a municipal court of record;

(E) a representative of any county attorney's office, district attorney's office, or criminal district attorney's office that serves in the applicable courts; and

(F) any other person the committee determines necessary to assist the committee.

(b) A court security committee may recommend to the county commissioners court the uses of resources and expenditures of money for courthouse security, but may not direct the assignment of those resources or the expenditure of those funds.

SECTION 10. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.06111 to read as follows:

Sec. 101.06111. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. The clerk of a district court shall collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 11. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.08111 to read as follows:

1 Sec. 101.08111. ADDITIONAL STATUTORY COUNTY COURT FEES:
2 GOVERNMENT CODE. The clerk of a statutory county court shall
3 collect an additional filing fee of \$5 under Section 51.971 in civil
4 cases to fund judicial and court personnel training.

5 SECTION 12. Subchapter F, Chapter 101, Government Code, is
6 amended by adding Section 101.10111 to read as follows:

7 Sec. 101.10111. ADDITIONAL STATUTORY PROBATE COURT FEES:
8 GOVERNMENT CODE. The clerk of a statutory probate court shall
9 collect an additional filing fee of \$5 under Section 51.971 in civil
10 cases to fund judicial and court personnel training.

11 SECTION 13. Subchapter G, Chapter 101, Government Code, is
12 amended by adding Section 101.12121 to read as follows:

13 Sec. 101.12121. ADDITIONAL COUNTY COURT FEES: GOVERNMENT
14 CODE. The clerk of a county court shall collect an additional
15 filing fee of \$5 under Section 51.971 in civil cases to fund
16 judicial and court personnel training.

17 SECTION 14. Subchapter H, Chapter 101, Government Code, is
18 amended by adding Section 101.1411 to read as follows:

19 Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT
20 CODE. The clerk of a justice court shall collect an additional
21 filing fee of \$5 under Section 51.971 in civil cases to fund
22 judicial and court personnel training.

23 SECTION 15. Subtitle L, Title 2, Government Code, is
24 amended by adding Chapter 158 to read as follows:

25 CHAPTER 158. COURT SECURITY OFFICERS

26 Sec. 158.001. DEFINITION. In this chapter, "court security
27 officer" means a constable, sheriff, sheriff's deputy, municipal

1 peace officer, or any other person assigned to provide security for
2 an appellate, district, statutory county, county, municipal, or
3 justice court in this state.

4 Sec. 158.002. COURT SECURITY CERTIFICATION. (a) Except as
5 provided by Subsection (b), a person may not serve as a court
6 security officer for an appellate, district, statutory county,
7 county, municipal, or justice court in this state unless the person
8 holds a court security certification issued by a training program
9 approved by the Texas Commission on Law Enforcement.

10 (b) A court security officer is not required to hold a court
11 security certification to provide security to a court described by
12 Subsection (a) before the first anniversary of the date the officer
13 begins providing security for the court.

14 Sec. 158.003. VERIFICATION. The sheriff, constable, law
15 enforcement agency, or other entity that provides security for a
16 court shall verify that each court security officer holds the court
17 security certification as required by this chapter.

18 SECTION 16. Subchapter D, Chapter 411, Government Code, is
19 amended by adding Section 411.0485 to read as follows:

20 Sec. 411.0485. PROTECTION FOR JUDGES. Any commissioned
21 peace officer in this state, including a commissioned officer of
22 the department, may provide personal security to a state judge at
23 any location in this state, regardless of the location of the law
24 enforcement agency or department that employs or commissions the
25 peace officer.

26 SECTION 17. Section 552.117(a), Government Code, is amended
27 to read as follows:

1 (a) Information is excepted from the requirements of
2 Section 552.021 if it is information that relates to the home
3 address, home telephone number, emergency contact information, or
4 social security number of the following person or that reveals
5 whether the person has family members:

6 (1) a current or former official or employee of a
7 governmental body, except as otherwise provided by Section 552.024;

8 (2) a peace officer as defined by Article 2.12, Code of
9 Criminal Procedure, or a security officer commissioned under
10 Section 51.212, Education Code, regardless of whether the officer
11 complies with Section 552.024 or 552.1175, as applicable;

12 (3) a current or former employee of the Texas
13 Department of Criminal Justice or of the predecessor in function of
14 the department or any division of the department, regardless of
15 whether the current or former employee complies with Section
16 552.1175;

17 (4) a peace officer as defined by Article 2.12, Code of
18 Criminal Procedure, or other law, a reserve law enforcement
19 officer, a commissioned deputy game warden, or a corrections
20 officer in a municipal, county, or state penal institution in this
21 state who was killed in the line of duty, regardless of whether the
22 deceased complied with Section 552.024 or 552.1175;

23 (5) a commissioned security officer as defined by
24 Section 1702.002, Occupations Code, regardless of whether the
25 officer complies with Section 552.024 or 552.1175, as applicable;

26 (6) an officer or employee of a community supervision
27 and corrections department established under Chapter 76 who

1 performs a duty described by Section 76.004(b), regardless of
2 whether the officer or employee complies with Section 552.024 or
3 552.1175;

4 (7) a current or former employee of the office of the
5 attorney general who is or was assigned to a division of that office
6 the duties of which involve law enforcement, regardless of whether
7 the current or former employee complies with Section 552.024 or
8 552.1175;

9 (8) a current or former employee of the Texas Juvenile
10 Justice Department or of the predecessors in function of the
11 department, regardless of whether the current or former employee
12 complies with Section 552.024 or 552.1175;

13 (9) a current or former juvenile probation or
14 supervision officer certified by the Texas Juvenile Justice
15 Department, or the predecessors in function of the department,
16 under Title 12, Human Resources Code, regardless of whether the
17 current or former officer complies with Section 552.024 or
18 552.1175;

19 (10) a current or former employee of a juvenile
20 justice program or facility, as those terms are defined by Section
21 261.405, Family Code, regardless of whether the current or former
22 employee complies with Section 552.024 or 552.1175; ~~[or]~~

23 (11) a current or former member of the Texas military
24 forces, as that term is defined by Section 437.001;

25 (12) a current or former federal judge or state judge,
26 as those terms are defined by Section 13.0021(a), Election Code, or
27 a spouse of a current or former federal judge or state judge; or

1 (13) a current or former district attorney, criminal
2 district attorney, or county attorney whose jurisdiction includes
3 any criminal law or child protective services matter.

4 SECTION 18. Section 572.002, Government Code, is amended by
5 adding Subdivision (11-a) to read as follows:

6 (11-a) "State judge" means:

7 (A) a judge, former judge, or retired judge of an
8 appellate court, a district court, a constitutional county court, a
9 county court at law, or a statutory probate court of this state;

10 (B) an associate judge appointed under Chapter
11 201, Family Code, or a retired associate judge or former associate
12 judge appointed under that chapter;

13 (C) a magistrate or associate judge appointed
14 under Chapter 54 or 54A;

15 (D) a justice of the peace; or

16 (E) a municipal court judge.

17 SECTION 19. Subchapter B, Chapter 572, Government Code, is
18 amended by adding Section 572.035 to read as follows:

19 Sec. 572.035. REMOVAL OF PERSONAL INFORMATION FOR FEDERAL
20 JUDGES, STATE JUDGES, AND SPOUSES. On receiving notice from the
21 Office of Court Administration of the Texas Judicial System of the
22 judge's qualification for the judge's office, the commission shall
23 remove or redact from any financial statement, or information
24 derived from a financial statement, that is available to the public
25 the residence address of a federal judge, a state judge, or the
26 spouse of a federal or state judge.

27 SECTION 20. Section 13.0021(a)(2), Election Code, is

amended to read as follows:

(2) "State judge" means:

(A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, ~~[or]~~ a county court at law, or a statutory probate court of this state;

(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter; ~~[or]~~

(C) a magistrate or associate judge appointed under Chapter 54 or 54A, Government Code;

(D) a justice of the peace; or

(E) a municipal court judge.

SECTION 21. Section 13.0021(b), Election Code, is amended to read as follows:

(b) If the registration applicant is a federal judge, a state judge, or the spouse of a state judge or a federal judge, the registrar of the county shall omit ~~[who seeks to have]~~ the applicant's residence address ~~[omitted]~~ from the registration list~~[, the applicant shall include with the application an affidavit stating that the applicant is a federal judge or state judge or the spouse of a federal judge or state judge].~~

SECTION 22. Section 15.0215, Election Code, is amended to read as follows:

Sec. 15.0215. OMISSION OF ADDRESS FOR ~~[NOTICE OF]~~ FEDERAL JUDGE OR STATE JUDGE AND SPOUSE ~~[STATUS]~~. (a) In this section, "federal judge" and "state judge" have the meanings assigned by

Section 13.0021.

(b) On receiving notice from the Office of Court Administration of the Texas Judicial System of the person's qualification for office as a [A] federal judge or [a] state judge and of the name of the judge's spouse, if applicable, [or the spouse of a federal judge or state judge who is registered to vote may at any time submit to] the registrar of the county in which the judge resides shall omit from the registration list the residence address of the judge and the spouse of the judge [an affidavit stating that the voter is a federal judge or state judge or the spouse of a federal judge or state judge].

(c) A registered district voter who wishes to verify that an elected judge whose personal identifying information is confidential under Section 552.1175, Government Code, resides in the district may request in writing that the registrar certify the judge lives in the district. The registrar shall exercise due diligence in determining the residence of the judge and respond to the voter in writing not later than the 10th business day after the date the request is received on whether the judge resides in the district. The registrar may not release the address of the judge. The registrar is not required to certify the residence of the same judge more than once in a calendar year, but must provide copies of the certification to subsequent requestors.

SECTION 23. Section 133.058(d), Local Government Code, is amended to read as follows:

(d) A county may not retain a service fee on the collection of a fee:

1 (1) for the judicial fund;

2 (2) under Article 42A.303 or 42A.653, Code of Criminal
3 Procedure; ~~or~~

4 (3) under Section 51.851, Government Code; or

5 (4) under Section 51.971, Government Code.

6 SECTION 24. Subchapter F, Chapter 1701, Occupations Code,
7 is amended by adding Section 1701.267 to read as follows:

8 Sec. 1701.267. TRAINING PROGRAM FOR COURT SECURITY
9 OFFICERS. (a) The commission, in consultation with the Office of
10 Court Administration of the Texas Judicial System, shall develop a
11 model court security curriculum for court security officers, as
12 required by Chapter 158, Government Code, and provide the
13 curriculum to any training program the commission approves to
14 provide training to court security officers.

15 (b) The commission shall issue a certificate to each court
16 security officer who completes the training program under this
17 section.

18 SECTION 25. Section 11.008, Property Code, is amended by
19 adding Subsection (j) to read as follows:

20 (j) On receipt of a written request from a federal judge,
21 state judge as defined by Section 572.002, Government Code, or
22 spouse of a federal or state judge, the county clerk shall omit or
23 redact from an instrument described by this section that is
24 available in an online database made public by the county clerk, or
25 by a provider with which the county commissioners court contracts
26 to provide the online database, social security number, driver's
27 license number, and residence address of the federal judge, state

1 judge, or spouse of the federal or state judge.

2 SECTION 26. Section 25.025(b), Tax Code, is amended to read
3 as follows:

4 (b) Information in appraisal records under Section 25.02 is
5 confidential and is available only for the official use of the
6 appraisal district, this state, the comptroller, and taxing units
7 and political subdivisions of this state if:

8 (1) the information identifies the home address of a
9 named individual to whom this section applies; and

10 (2) the individual:

11 (A) chooses to restrict public access to the
12 information on the form prescribed for that purpose by the
13 comptroller under Section 5.07; or

14 (B) is a federal or state judge as defined by
15 Section 572.002, Government Code, or the spouse of a federal or
16 state judge, beginning on the date the Office of Court
17 Administration of the Texas Judicial System notifies the appraisal
18 district of the judge's qualification for the judge's office.

19 SECTION 27. Section 521.121(c), Transportation Code, is
20 amended to read as follows:

21 (c) The department shall establish a procedure, on a license
22 holder's qualification for office as a federal or state judge as
23 defined by Section 572.002, Government Code, [for a federal judge,
24 a state judge, or the spouse of a federal or state judge] to omit the
25 [license holder's] residence address of the judge and the spouse of
26 the judge on the license holder's license and to include, in lieu of
27 that address, the street address of the courthouse in which the

1 license holder or license holder's spouse serves as a federal judge
2 or state judge. ~~[In establishing the procedure, the department
3 shall require sufficient documentary evidence to establish the
4 license holder's status as a federal judge, a state judge, or the
5 spouse of a federal or state judge.]~~

6 SECTION 28. (a) Not later than January 1, 2018, the Office
7 of Court Administration of the Texas Judicial System, the
8 Department of Public Safety, the Texas Ethics Commission, each
9 county clerk, each registrar, and any other county official
10 responsible for county records shall establish the policies and
11 procedures necessary to comply with the changes in law made by this
12 Act.

13 (b) As soon as practicable after the effective date of this
14 Act:

15 (1) the Office of Court Administration of the Texas
16 Judicial System shall establish the judicial security division; and

17 (2) each judge required to establish a court security
18 committee under this Act shall establish the committee.

19 SECTION 29. Section 51.607, Government Code, does not apply
20 to the imposition of a fee assessed under Section 51.971(a),
21 Government Code, as added by this Act.

22 SECTION 30. A person serving as a court security officer as
23 defined under Section 158.001, Government Code, as added by this
24 Act, on the effective date of this Act is not required to receive
25 the certification required under Section 158.002, Government Code,
26 as added by this Act, before September 1, 2019.

27 SECTION 31. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 42 passed the Senate on April 4, 2017, by the following vote: Yeas 26, Nays 5; and that the Senate concurred in House amendment on May 22, 2017, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

I hereby certify that S.B. No. 42 passed the House, with amendment, on May 17, 2017, by the following vote: Yeas 140, Nays 3, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor



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2017

85th Legislative Update



Texas Municipal Courts Education Center
Funded by a Grant from the Texas Court of Criminal Appeals

TEXAS MUNICIPAL COURTS EDUCATION CENTER



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1.800.252.3718

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E-mail: tmcec@tmcec.com

Website: www.tmcec.com

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Friday at Texas Department of Transportation

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TEXAS MUNICIPAL COURTS EDUCATION CENTER

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Texas Municipal Courts Education Center 2017 Legislative Update

**August 4, 2017
Overton Hotel
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Lubbock**

**August 8, 2017
Omni Westside
281.558.8338
Houston**

**August 15, 2017
Omni Park West
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Dallas**

**August 18, 2017
Omni Southpark
512.448.2222
Austin**

AGENDA

8:00 – 9:00 a.m. Registration and Breakfast

9:00 – 9:10 a.m. Announcements

9:10 – 12:00 p.m. SESSION ONE

12:00 – 1:00 p.m. Lunch

1:00 – 5:00 p.m. SESSION TWO (also includes a Q&A session)

5:00 p.m. Adjournment

Each session will use a thematic approach to address bills pertaining to the following topics:

- **Courts, Courts Costs, and Administration of Justice**
- **Juvenile Justice and the Interests of Children**
- **Magistrate Duties, Domestic Violence, Mental Health, and Human Trafficking**
- **Local Government Issues**
- **Procedural Law**
- **Substantive Criminal Law**
- **Traffic Safety and Transportation Code Amendments**

The day will conclude with a Q&A session.

Funded by a Grant of the Texas Court of Criminal Appeals

Introduction to Materials

THE ROAD AHEAD

The passage of a texting while driving bill, criminal justice reform, the scrutiny of local government: it has been a memorable legislative year (and with the first Special Session underway the possibility of even more memories awaits). The Texas 85th Regular Legislature convened on January 10, 2017. The Texas Municipal Courts Education Center (TMCEC) tracked 1225 bills (nearly 259 more than during the 84th Regular Legislature). However, 140 days later, only 209 of the bills tracked (or 17.1 percent) became law. The 85th Regular Session will be remembered for many things, including changes in laws pertaining to fines and court costs, expunctions and court security.

This publication contains 141 bill summaries divided into nine categories: (1) Courts, Court Costs, and Administration of Justice; (2) Domestic Violence and Human Trafficking; (3) Juvenile Justice and the Interests of Children; (4) Law Enforcement; (5) Local Government; (6) Magistrate Duties and Mental Health; (7) Procedural Law; (8) Substantive Criminal Law; and (9) Traffic Safety and Transportation. Admittedly, many of these bills defy efforts to pigeonhole them into one single category. If you prefer to read bill summaries organized numerically, rather than by topic, an alternate version of the legislative issue of *The Recorder* will be available online at www.tmcec.com.

NOTE: The summaries contained in this publication were written during the months of May, June, and July. Thus, when a summary refers to “current law,” it is referring to the law prior to the day of the legislative enactment. Most amendments, except where noted, are effective September 1, 2017.

TMCEC could not bring this compilation to you and maintain our educational mission without the assistance of the State of Texas, more specifically, the House Research Organization, the Senate Research Center, the Office of Court Administration, and the Legislative Budget Board. With a few exceptions, most of the bill summaries contained in this compilation are derived and adapted from the work product of the State of Texas and the forenamed agencies. We are most appreciative for their efforts.

Many of the summaries are followed by commentary. The commentary is the collaborative efforts of the TMCEC staff attorneys. Thanks to Mark Goodner, Robby Chapman, Regan Metteauer, and Ned Minevitz for their contributions throughout this project. I also want to thank Texas Municipal Courts Fellowship recipients, Robert Avila, who is a second-year law student at Texas Tech University, and Mark Denman, who is a second-year law student at St. Mary’s University. Robert and Mark were critical in facilitating this project.

I also want to thank Patty Thamez, Hope Lochridge, Demoine Jones, and the rest of the TMCEC staff for their commendable efforts in bringing this information to the courts and the people of Texas. A special word of thanks to the TMCEC Board of Directors, whose commitment to TMCEC’s educational mission is unwavering.

Ryan Kellus Turner
General Counsel & Director of Education, TMCEC
July 21, 2017

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About the Speakers

ROBBY CHAPMAN

Robby Chapman is the Presiding Judge for the City of Rollingwood and Director of Clerk Education & Program Attorney for the Texas Municipal Courts Education Center. Prior to working for the Center, Mr. Chapman served as an Assistant District Attorney for Nueces County, the Municipal Court Prosecutor for the City of Cedar Park, and as an attorney in private practice. Mr. Chapman has received Merit Certification in Municipal Prosecution from the Texas City Attorneys Association, the Board of Director's Award from the Texas Court Clerks Association, and is an ICM Certified Court Manager. Mr. Chapman earned his Doctor of Jurisprudence from St. Mary's University School of Law and Bachelor of Arts in History from The University of Texas at Austin.

MARK GOODNER

Mark Goodner is the Deputy Counsel and Director of Judicial Education for the Texas Municipal Courts Education Center (TMCEC). Annually, Mark plans, develops, and oversees ten Regional Judges Seminars per year each offering 16 hours of judicial education along with two 32-hour New Judges Seminars. In addition to his work at TMCEC, Mark serves as an Associate Judge for the cities of Bee Cave and Leander. Mark is a Certified Court Manager, having completed the Court Management Program of the Institute for Court Management in August 2016. Mr. Goodner graduated from Oklahoma State University in 1997 with a B.A. in Theatre and from the University of Texas School of Law with a juris doctorate and certification in the Graduate Portfolio Program in Dispute Resolution in May of 2007.

REGAN METTEAUER

Regan Metteauer has been a Program Attorney at TMCEC since 2012. As a Program Attorney, Mrs. Metteauer is responsible for planning, developing, and facilitating webinars, the Traffic Safety Conference, the Juvenile Case Managers Seminar, and the Bailiffs and Warrant Officers Conference. TMCEC is a contract training provider with the Texas Commission on Law Enforcement (TCOLE), for which she is currently the Training Coordinator. She holds a TCOLE Basic Instructor certification (40 hours). She facilitated

TMCEC's first mental health summit in May of 2016 for municipal court judges and prosecutors.

Mrs. Metteauer received her Bachelor of Arts in Journalism from Sam Houston State University (SHSU) and her juris doctor from Baylor Law School. Mrs. Metteauer married her college sweetheart, who is a detective with the Austin Police Department. Their daughter, Savannah Primrose, was born May 24, 2013. Mrs. Metteauer has strong ties to Shawnee, Oklahoma, where she was born, and Conroe, Texas, where she graduated from high school and where her family lives and runs a catering company, Darrel's Catering, named after her grandfather.

RYAN KELLUS TURNER

Ryan Kellus Turner is General Counsel and Director of Education for the Texas Municipal Courts Education Center. Prior to joining the Center in 1999, he served as Briefing Attorney for Judge Sharon Keller at the Texas Court of Criminal Appeals. Mr. Turner obtained his juris doctorate from Southern Methodist University School of Law. He received his Bachelor's Degree in Psychology with highest honors from St. Edward's University, Austin, Texas, where he now teaches as an adjunct faculty member in the School of Behavioral and Social Sciences. In 2004 and 2013, he was the recipient of the School's Adjunct Teaching Excellence Award and a finalist for the University Adjunct Teaching Excellence Award in 2014.

Mr. Turner previously served as a Special Assistant County Attorney for Kendall County. He is currently Deputy City Attorney for the City of Dripping Springs and also serves as a Substitute Associate Judge on the Austin Municipal Court.

In 2011, he was an advisory member on the Texas Judicial Council's Juvenile Justice Committee. In 2012, Mr. Turner was named Co-Chair of the Texas Judicial Council Legislative Subcommittee on Juvenile Justice. He is current an advisory member on the Texas Judicial Council's Pretrial Justice Committee.

A native Texan, Mr. Turner was raised in the north Texas town of Vernon. He is the co-author of the books Lone Star Justice: A Comprehensive Overview of the Texas Criminal Justice System and The Municipal Judges Book.

Fellowships Awarded

2017 Texas Municipal Courts Fellowships Awarded

Organizing more than 50 events annually, and providing professional and law-related education to more than 4,000 public officials and employees, the Texas Municipal Courts Education Center (TMCEC) is one of the largest publically funded judicial branch education organizations in the United States.

Texas Municipal Courts Fellowships are awarded by TMCEC in legislative years to law students and recent law school graduates who demonstrate academic and extracurricular excellence, a commitment to public service, and an interest in learning about the Texas judicial system, criminal law, and the role of local trial courts of limited jurisdiction.

Under the supervision of the TMCEC General Counsel and Director of Education, Fellows conduct legal research, interpret recent legislation, and draft summaries of new procedural and substantive laws of interest to municipal judges, court personnel, city attorneys, and peace officers. In addition to being awarded a stipend, recipients are encouraged to explore new and challenging legal issues stemming from recent legislation and to make contributions to TMCEC's journal and other publications.

TMCEC was pleased to announce that Mark Denman and Robert Avila were selected as Texas Municipal Courts Fellows.

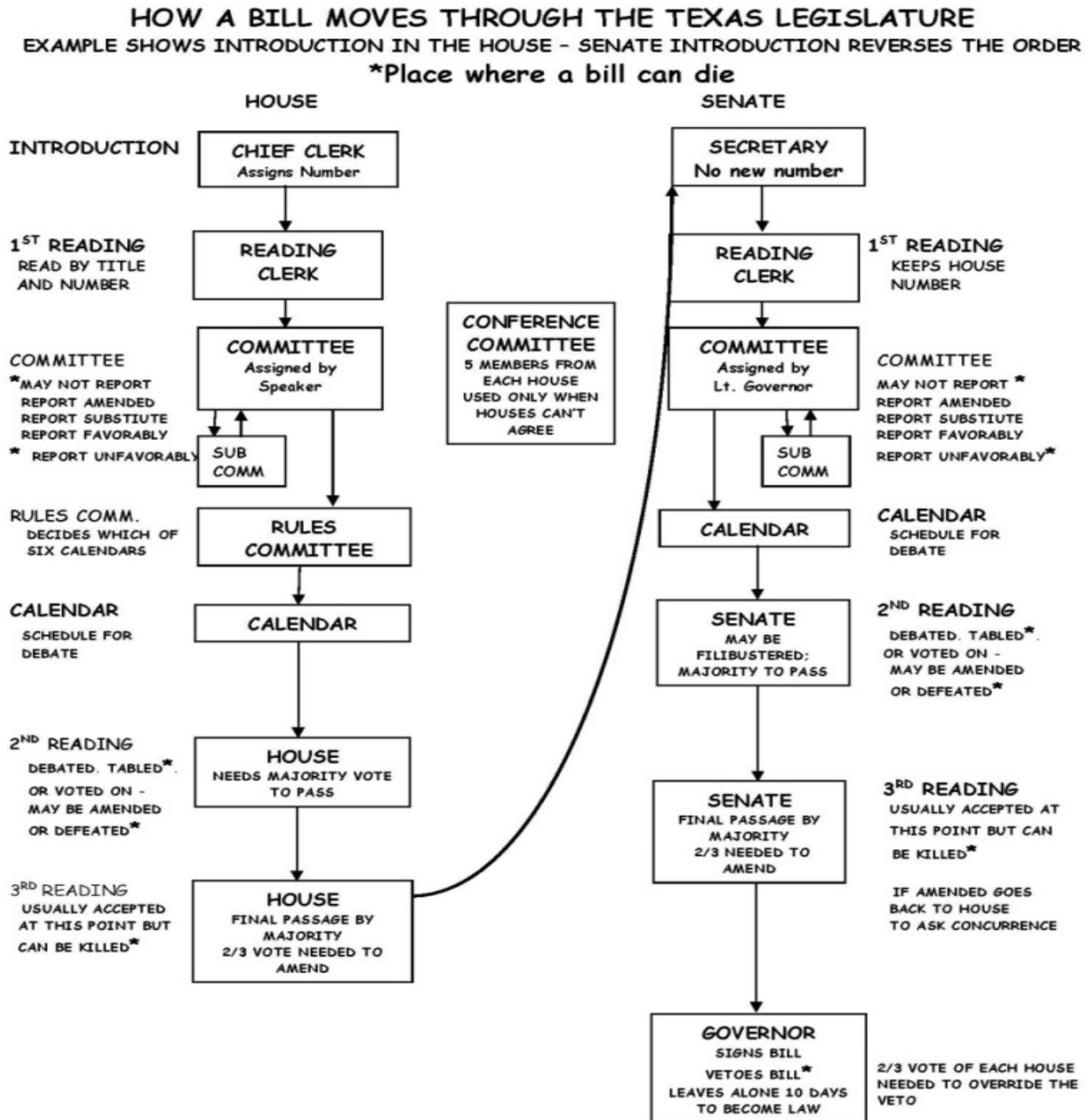
Mr. Denman is a second-year Juris Doctor candidate at St. Mary's University School of Law. During his first year, he was a semi-finalist in the Linda and Dave Schlueter 2017 First Year Moot Court Competition. He previously managed crews for a high rise buildings maintenance company, and helped open a boutique grocery store in Dallas. After working in the private sector for several years, he was accepted into St. Edward's University where he graduated *Cum Laude* with a Bachelor of Arts in Criminal Justice and minor in English Writing and Rhetoric. During this time, he also served as an intern for the Travis County District Attorney's Office.

Mr. Avila is a second-year Juris Doctor candidate at Texas Tech University School of Law, with an interest in public policy and international law. He is the Executive Lead Articles Editor for *The Journal of Biosecurity, Biosafety and Biodefense Law* at Texas Tech, and works as a writer for the campus newspaper, *The Daily Toreador*. He has worked previously as an intern for the Bexar County District Attorney's Office, and as an assistant for the University of Texas at San Antonio's Institute of Law and Public Affairs. He graduated from the University of Texas at San Antonio with a Bachelor of Arts in English Professional Writing and in Criminal Justice.

TMCEC was founded in 1984 by the Texas Municipal Courts Association. TMCEC is a 501(c)(3) nonprofit corporation primarily funded by a grant administered by the Texas Court of Criminal Appeals from public funds appropriated by the Legislature to the Judicial and Court Personnel Training Fund. Serving more than 36 percent of the Texas judicial system, TMCEC provides: (1) judicial education, technical assistance, and the necessary resource material to assist municipal judges, court support personnel (i.e., court clerks, court administrators, bailiffs, city marshals, juvenile case managers, interpreters), and city attorneys in obtaining and maintaining professional competence in the fair and impartial administration of criminal justice; and (2) information to the public about the Texas judicial system and laws relating to public safety and quality of life in Texas communities.

How A Bill Becomes a Law

A bill's journey to becoming a **law** is a long and complicated one. There are many stages at which a bill can fail. The below chart is a detailed overview of the process:



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Courts, Court Costs, and Administration of Justice

H.B. 214

Subject: Recording the Texas Supreme Court and the Court of Criminal Appeals

Effective: September 1, 2017

Recording and broadcasting courtroom proceedings can promote transparency and allow the public to evaluate the efficacy of the judicial system. To increase the public's access to the judicial branch, H.B. 214 builds upon previous policies adding Section 22.303 of the Government Code requiring the Supreme Court and the Court of Criminal Appeals to make video and audio recordings of each oral argument and public meeting of the court and post those recordings on the court's website. This is only required if appropriated funds or donations are made available.

TMCEC: Depending on where you live, it may be a long drive to Austin to watch oral arguments before either the Court of Criminal Appeals or the Texas Supreme Court. Under H.B. 214, technology can save you the trip. Providing the general public access online to the court room proceedings has the potential to increase public understanding of the judicial system and elevate the debate on contentious issues. Such access is also beneficial to all other Texas appellate and trial courts, including municipal courts. Not only does the Court of Criminal Appeals consider important criminal law issues, but it also plays an important role in both judicial education and the administration of courts.

H.B. 322

Subject: Expunction of Criminal Records for Certain Veterans

Effective: September 1, 2017

In 2009, the Texas Legislature authorized the creation of specialty courts for certain veterans. These courts hold former military members who are charged with crimes accountable through a program of court appearances and treatment appointments. Once a person completes a veterans treatment court program, the case will be dismissed. H.B. 322 amends current law and specifically authorizes a court to order expunction on behalf of the defendant following successful completion of the veterans treatment court program. It also waives fees and costs that may be assessed for the expunction.

TMCEC: This bill is significant in that it is one of three during the Session that amends Chapter 55 of the Code of Criminal Procedure and the other general expunction statutes (See also, H.B. 557 and H.B. 3147). The result could be to make an already complicated statute even more cluttered. It should be noted that the veterans courts referenced in H.B. 322 are programs authorized under Chapter 124 of the Government Code. While veterans appearing in municipal court may not be specifically excluded from taking their case to a local veterans court, eligibility is dependent on both the commissioners court of the county establishing a veterans court and also the consent of the prosecutor. Consequently, most municipal courts will not encounter cases referred to a veterans court.

H.B. 337**Subject: Continuation of Certain Public Benefits after Release from County Jail****Effective: September 1, 2017**

Concerns have been raised regarding the termination of the Medicaid eligibility of an individual who is confined in a county jail regardless of whether the individual has been convicted of an offense. H.B. 337 addresses this issue by providing a mechanism by which the Medicaid benefits of an individual confined in a county jail may be suspended, rather than terminated, and then reinstated within 48 hours of the individual's release as long as the individual remains eligible while confined in county jail.

H.B. 337 also adds Section 351.046 of the Local Government Code requiring a sheriff of a county who chooses to notify the Health and Human Services Commission (HHSC) of the confinement of an individual who is receiving medical assistance benefits must provide the notice as soon as possible after the 30th day after the date of the individual's confinement. If a sheriff chooses to provide this notice they must also provide notice to the Social Security Administration of the release of a prisoner who, before confinement, was receiving Supplemental Security Income benefits, Social Security Disability Insurance benefits and notice to the HHSC if the prisoner was receiving medical assistance benefits within 48 hours of the prisoner's release. The sheriff must provide the released prisoner with a written copy of the notice and a telephone number at which the prisoner may contact the HHSC for assistance reinstating their benefits. There is no civil liability for the sheriff of a county, a county, or an employee of either for damages resulting from failure to comply with this section.

H.B. 351**Subject: Commission to Study and Review Criminal Offenses****Effective: September 1, 2017**

Section 30 creates a commission to study and review all penal laws of this state other than criminal offenses under the Penal Code, under Chapter 481 of the Health and Safety Code (Texas Controlled Substances Act), or related to the operation of a motor vehicle.

The commission is composed of nine members appointed by the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Chief Justice of the Texas Supreme Court, and the Presiding Judge of the Texas Court of Criminal Appeals.

The commission is authorized to make recommendations to the Legislature regarding the repeal of laws that are identified as being unnecessary, unclear, duplicative, overly broad, or otherwise insufficient to serve the intended purpose of the law.

The commission shall make recommendations to the Legislature and evaluate the recommendations made by the commission created by H.B. 1396 during the 84th Legislature, Regular Session (2015).

The commission is abolished and Section 30 expires December 31, 2018.

H.B. 431

Subject: Appointment of a Temporary Justice of the Peace

Effective: May 29, 2017

H.B. 431 amends Section 27.055 of the Government Code, specifying that the authority of a county judge to appoint a qualified person to serve as a temporary justice of the peace in the event a justice is temporarily unable to perform official duties because of absence, recusal, illness, injury, or other disability, is triggered on either the judge's own motion or the request of the justice of the peace. H.B. 431 also changes the prescribed period of the temporary justice's service from the "duration of the disability" to the "duration of the justice's absence" from the bench.

H.B. 555

Subject: Additional Fee for Issuing a Marriage License

Effective: June 12, 2017

H.B. 555 authorizes the county clerk, under the amended Chapter 118 of the Local Government Code, to collect an additional fee of \$100 for issuing a marriage license if neither applicant for the marriage license provides proof that the applicant is a Texas resident. Some have argued that the marriage licensing and fee process is primarily intended for Texas residents, and processing licenses for out of state applicants creates extra work for county clerks. The bill, although effective immediately, applies only to a marriage license issued on or after January 1, 2019.

TMCEC: This bill will certainly be big news to anyone from outside Texas seeking a marriage license in the state after January 1, 2019. The fee for Texas residents remains \$60 and may be waived on completion of a premarital education course. Neither of these will be options for non-residents after that date. The reasoning for the fee, ostensibly, is to offset the additional cost arising from county clerks processing these out of state applications.

H.B. 555 also makes changes to Section 2.009 of the Family Code. Additional language provides that the license *may* include the name of the county clerk and that the marriage license application form "*may not require* the name of the county clerk to appear on the application." This could be viewed as a response to issues surrounding individuals such as Kentucky clerk Kim Davis and others who protested the U.S. Supreme Court's 2015 decision in *Obergefell v. Hodges* (holding: Under the Due Process and Equal Protection Clauses of the 14th Amendment, same-sex couples have a fundamental right to marry, and thus certain state laws are invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples; there also being no lawful basis for a state to refuse to recognize a lawful same-sex marriage performed in another state on the ground of its same-sex character.) See, Ryan Kellus Turner and Regan Metteauer, "Case Law and Attorney General Opinion Update," *The Recorder* (November 2015) at 22.

H.B. 557

Subject: Courts with Expunction Authority under Chapter 55 of the Code of Criminal Procedure and a Related Fee

Effective: September 1, 2017

Chapter 55 of the Code of Criminal Procedure allows an acquitted person and certain others to petition for an expunction of criminal records. Currently, only district courts have jurisdiction to accept these petitions. The ability to order expunctions in municipal court is considerably more restrained, generally limited to

certain juvenile convictions or dismissals. This means that an individual that was acquitted or that has had charges dropped for a Class C misdemeanor in municipal court must file an expunction petition in district court. Some have suggested that this places an administrative burden on the persons seeking such an order. H.B. 557 creates concurrent jurisdiction for the expunction of Class C misdemeanors between district court, municipal courts of record, and justice court. In addition, a new fee is created in order to file an expunction in a municipal court of record.

TMCEC: Expunctions were on the Legislature’s collective mind this session. Four separate bills passed this session amending the expunction process for criminal cases, three of which amended Chapter 55 of the Code of the Criminal Procedure.

H.B. 557 greatly expands the expunction process outlined in Article 55.02. Municipal courts of record and justice courts now have concurrent jurisdiction with the district courts to expunge fine-only offenses. Notably absent from courts given expunction authority under Chapter 55: non-record municipal courts. A person who is eligible for an expunction under the process described in Article 55.02 may file in a municipal court of record or justice court in the county where either the petitioner was arrested or the offense was alleged to have occurred. Based on an Office of Court Administration February 2017 survey of the number of municipal courts of record in Texas, adding the municipal courts would increase the number of courts that may potentially hear expunction petitions for fine-only offenses from 467 to 636.

The bill also creates a new \$100 fee in Article 102.006, Code of Criminal Procedure, for filing an expunction petition in a municipal court of record or justice court. This fee, meant to defray the costs associated with the court notifying agencies of the expunction order, is waived if (1) the petitioner files it following an acquittal; and (2) it is filed within 30 days of the acquittal. Oddly, considering the current nationally regarding the ability to pay court fees, there is no provision for the indigent seeking an expunction. A judge may, however, order the fee returned to the petitioner upon granting the expunction.

H.B. 1217

Subject: Electronic Notary Public

Effective: July 1, 2018

H.B. 1217 amends Chapter 406 of the Government Code by adding Subchapter C, authorizing the appointment and commissioning of an online notary public. The bill limits the types of online notarizations that an online notary public may perform to those relating to a document involving real estate located in Texas, a document or agreement relating to a transaction in which at least one of the parties is a Texas resident or authorized to conduct business in Texas, an agreement or instrument securing a debt that is payable at a location in Texas, a document that is intended to be filed in state public records (e.g., court records), an acknowledgement or affirmation made by a person while the person is physically located in Texas, or a document signed by a person who is a Texas resident at the time of signing as evidenced by a valid government-issued identification credential that includes a photograph and current Texas address.

TMCEC: It is a brave new world as the digital era arrives for the office of notary public. The office, which can trace its roots to medieval scribes and classical Rome before that, has gone online. H.B. 1217 defines “online notarization” to mean a notarial act performed by means of two-way video and audio conference technology. In addition, an online notary has the same laundry list of authority as any other notary public under Section 406.016 of the Government Code. This may signal the beginning of driving safety course providers scrambling to offer online notarization of affidavits to defendants looking to secure a dismissal.

H.B. 1866**Subject: Compensation and Restitution to Crime Victims****Effective: September 1, 2017**

Some probation departments report having difficulty locating crime victims for purposes of remitting restitution payments that are owed to those victims. These are later presumed abandoned and turned over to the Comptroller of Public Accounts as unclaimed property. H.B. 1866 resolves this issue by realigning incentives for probation departments to facilitate the successful location of crime victims. Specifically, Chapter 75 of the Government Code is amended to allow a department that is unable to locate a victim for a period of five years to keep a 1.5% collection fee upon delivery of the unclaimed restitution payments to the Comptroller.

TMCEC: While municipal courts collect restitution, H.B. 1866 is inapplicable to entities other than probation departments.

H.B. 2065**Subject: Fines Collected for Enforcement of Commercial Motor Vehicle Safety Standards****Effective: September 1, 2017**

Certain municipalities and counties are authorized to apply for certification to conduct commercial vehicle inspections and issue citations. Section 644.102 of the Transportation Code (Municipal and County Enforcement Requirements) provides that the monies collected from the fines associated with the citations can be retained by the city or county to recover their costs of enforcement. In each fiscal year, a county or municipality can retain fines in an amount not to exceed 110 percent of their actual expenses for enforcement. All fines that exceed this limit are reported to the Comptroller and deposited to the credit of the Texas Department of Transportation. H.B. 2065 requires a municipality or county that retains a fine from commercial vehicle inspection enforcement to annually file a report detailing fines retained and any expenses claimed for the enforcement during the previous year.

TMCEC: Not all municipalities are eligible to enforce commercial motor vehicle standards. See, Section 644.101, Transportation Code (Certification of Peace Officers). Most municipalities are not. Nevertheless, with more commercial motor vehicles on the road every year, more municipalities are increasing enforcement of commercial motor vehicle safety standards on their roadways to improve the public safety. H.B. 2065 requires municipalities to report information that they are likely already collecting. The administrative enforcement of commercial motor vehicle standards potentially entails the imposition of steep fines. This bill aims to provide a check and balance. It is important to note that municipalities that fail to report related fines and expenses will be on the hook to send the Comptroller all fines collected from enforcement.

H.B. 3069**Subject: Administration of and Eligibility for Participation in Veteran's Treatment Courts****Effective: September 1, 2017**

Veteran's Treatment Courts (VTC) are designed to assist military veteran defendants who have suffered certain injuries as a result of their military service. The commissioners court of a county may establish a VTC program for a person arrested or charged with any misdemeanor or felony offense. These courts have

shown a high level of success in preventing recidivism by providing these veterans with tools to lead a law-abiding and productive lifestyle.

H.B. 3069 amends Section 124.001 and 124.002 of the Government Code to expand the pool of military veteran defendants who are both eligible to have their cases dismissed after successful completion of a VTC program and able to enter into a VTC program rather than be arrested or charged. The bill further establishes that proof of certain matters may be submitted to the applicable criminal court, not necessarily the court in which the criminal case is pending.

Section 124.003 of the Government Code requires a VTC to ensure that a defendant is provided legal counsel before volunteering to enter the program. H.B. 3069 limits that requirement to criminal cases for which there has not yet been a disposition. Section 124.003 is further amended to allow a participant who is arrested or charged with an offense to withdraw from the program any time before a trial on the merits has been initiated.

H.B. 3069 adds Section 411.0727 of the Government Code allowing veterans who successfully complete a VTC program to petition for non-disclosure of their offense as long as the defendant has never been previously convicted of certain felony offenses, the offense did not involve the operation of a motor vehicle while intoxicated, and the veteran is not convicted of any felony offenses between the program graduation date and the second anniversary of that date.

H.B. 3147

Subject: Expunction for Persons Arrested as a Result of Inaccurate Identifying Information

Effective: September 1, 2017

Many people believe if they are released after being mistakenly arrested and the charges were dropped or dismissed without any court date being set that they no longer have an arrest record; even in cases of a mistaken arrest, the damaging documents are not automatically removed. H.B. 3147 expedites the process of having these records expunged, so that innocent citizens who have been wrongfully arrested can move forward with their lives, free from fear of a tarnished record for a crime they did not commit. H.B. 3147 amends Chapter 55 of the Code of Criminal Procedure relating to the entitlement to an expunction for certain persons who are arrested solely as a result of inaccurate identifying information that was inaccurate due to a clerical error or mistaken identity.

TMCEC: H.B. 3147 is one of three bills amending Chapter 55 of the Code of Criminal Procedure this session. The changes in H.B. 3147 are strictly limited to those charged due to a mistaken identity or similar errors; however, there appears to have been little attempt to reconcile changes among the three bills. The resulting amendments may contribute to an already complicated expunction statute.

H.B. 3167

Subject: Program for Improvement of Collection of Court Costs, Fees, and Fines

Effective: June 1, 2017

H.B. 3167 amends Article 103.003(b) of the Code of Criminal Procedure relating to the Collection Improvement Program (CIP) for counties and municipalities. Counties with a population under 50,000 were previously not required to participate in the program. H.B. 3167 raised that threshold to 100,000.

TMCEC: 2016 was a rough year for the CIP. Following allegations that the program, administered through the Office of Court Administration, did not provide for the indigent or those struggling to pay outstanding fines, fees, and costs, the program's rules were amended by the Texas Judicial Council in January 2017. As amended, the scope of the CIP is significantly narrowed. Counties with populations between 50,000 and 100,000 will no longer be required to participate. Notably, the population threshold for municipalities required to participate in the CIP is 100,000.

H.B. 3492

Subject: Authority of Clerks to Obtain Identifying Information

Effective: June 15, 2017

Sometimes situations arise in which individuals seeking to file documents with or request services from certain county or district clerks provide fraudulent information to the clerk. H.B. 3492 seeks to combat fraud. Under the new Section 191.011 of the Local Government Code, a county or district clerk in counties with a population of 3.3 million or more to record identifying information regarding individuals who seek to file documents or obtain other public service provided by the clerk. A clerk may not charge a fee for recording the identifying information and may not refuse to file a document or provide other public service if a person does not provide identifying information.

TMCEC: This new authority is only bestowed on clerks in Harris County, as it is the only county with a population of 3.3 million or more. Identifying information that can be recorded may include a driver's license or identification card, a photograph, or a recording of the individual's image or voice.

H.B. 3903

Subject: Political Contribution by Judicial Candidates

Effective: June 15, 2017

The Texas Judicial Campaign Fairness Act was enacted in 1995. This Act placed restrictions on how a judicial candidate or officeholder could use campaign funds with regard to making political contribution to other candidates, officeholders, political parties, or political organizations.

H.B. 3903 amends Section 253.1611 of the Election Code, removing restrictions that prohibited judges and judicial candidates from making political contribution to political committees and also removes the limits on how much judges and judicial candidates can contribute to county and state parties. These changes will bring judicial candidates and judges in line with other candidates and elected officials regarding political contributions.

TMCEC: While this may be a welcomed change, member of the judiciary must remain vigilant of the Canons of Judicial Conduct when participating in political and fundraising activities.

H.R. 798/H.R. 799

Subject: Municipal Courts Weeks

November 6-10, 2017 and November 5-9, 2018

Municipal courts provide citizens with a local forum where questions of law and fact can be resolved in regard to alleged violations of state law and municipal ordinances. Because more citizens come into contact with municipal courts than any other courts, the public impression of the Texas judicial system is largely dependent on their experience there. Municipal judges, clerks, court administrators, prosecutors,

juvenile case managers, bailiffs, and warrant officers continually strive to improve the administration of justice through participation in judicial education programs, seminars, workshops, and the annual meetings of their state and local professional organizations. Municipal courts in Texas play a vital role in preserving public safety, protecting the quality of life for area residents, and deterring future criminal behavior, and it is indeed fitting to recognize municipal judges and court support personnel for their exemplary dedication to the communities they serve.

The House of Representatives of the 85th Texas Legislature recognizes each of the weeks of November 6-10, 2017 and November 5-9, 2018, as Municipal Courts Week and take special note of the important work performed by all those associated with the state's municipal courts.

S.B. 42

Subject: Security of Courts and Judges; Judge Kocurek Judicial and Courthouse Security Act
Effective: September 1, 2017

The assassination attempt against Travis County District Judge Julie Kocurek in the fall of 2015 underscored the urgent need to evaluate the state's court security policies. Shortly after this incident, the Office of Court Administration sent a court security survey to judges in the state. This survey revealed that nearly two-thirds of judges do not know of, or do not have, a court security plan; more than 30 percent of judges were aware of a security incident in the year prior to completing the survey; nearly two-thirds of judges reported that no court security training has been provided in their courthouse; and nearly two-thirds of judges are unaware of existing statutory security incident reporting requirements. Accordingly, the Texas Judicial Council established a Court Security Committee. This committee found serious deficiencies in the state's security posture, including a lack of court security best practices, training, and funding.

S.B. 42, named the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017, implements recommendations from the Court Security Committee, including creating the position of Director of Security and Emergency Preparedness at the Office of Court Administration, establishing local court security committees, requiring court security training of judges and court personnel, adding a \$5 filing fee in civil cases (and directing the comptroller to credit such fees received to the Judicial and Court Personnel Training Fund), and facilitating removal of judges' personal information from public documents. These changes would improve court safety for judges, employees, and citizens of Texas.

TMCEC: The 2015 shooting of Judge Julie Kocurek was not only shocking in its audacity but also made world-wide news. Judge Kocurek, a former prosecutor and sitting district court judge, was ambushed in her driveway while returning home with family from a high school football game. Three men were ultimately indicted in the conspiracy, one of which had been set to appear before Judge Kocurek on criminal charges. Most surprising, however, was that Judge Kocurek had not been informed of a death threat against her that was previously known by law enforcement. S.B. 42 attempts to address these and other issues affecting judges across the state.

Section by Section Analysis

Section 2: Required Reporting of Security Incidents

The Office of Court Administration has collected data related to court security incidents since 2007. At that time it was found that there were more than 4,200 security incidents in a one-year period, and nearly 40% of the state's courtrooms had no security resources other than a security officer. The security incident

report, to be sent to the Office of Court Administration within three days of the incident, is not new. The amended Article 102.017 of the Code of Criminal Procedure, however, places the obligation squarely on the agency or entity that provides security for a court to report a security incident not only to the Office of Court Administration, but also to the presiding judge of the court in which the incident occurred. This directly addresses the fact that previously, in Travis County as elsewhere, judges were not being made aware of potential threats to the court.

Sections 3-4, 9: Court Security Committee

S.B. 42 adds Section 29.014 to the Government Code chapter outlining general provisions for municipal courts and Section 30.00007 to the Government Code chapter for municipal courts of record. This section creates a new requirement that the presiding municipal judge establish a court security committee within the city. The committee, chaired by the presiding judge, is meant to establish policies and procedures necessary to provide adequate court security. Importantly, the bill takes the guesswork out of the committee's composition. In addition to the presiding judge, the committee is required to include a representative of the agency or entity that provides primary security for the court, a representative of the city, and any other person that the committee determines will be of assistance. S.B. 42 also requires that the county create a similar committee for county courts.

TMCEC spoke to clerks around the state at the regional seminars during the last academic year about the importance of establishing policies and procedures. Many clerks questioned how to begin the process. S.B. 42 provides a framework to help courts kick things off where court security is involved. There is no requirement that the committee meet more than once, but it would be beneficial for courts to embrace the opportunity to bring court stakeholders together to periodically and consistently reevaluate the security of the court and its users.

Sections 5-7: New Civil Filing Fee

Section 5 amends Chapter 51 of the Government Code by adding Subchapter N, creating a new filing fee. The Judicial and Court Personnel Training Fee is a new \$5 fee collected on the filing of any civil action requiring a fee. Municipal courts are *not authorized* to collect this fee. The fee, however, will be deposited into the Judicial and Court Personnel Training Fund. This is an account provides funds for continuing judicial education for judges and court personnel. This account partially funds many of the state's judicial education entities, including TMCEC.

Section 6 amends Section 56.003 of the Government Code by adding Subsection (h). This directs the Court of Criminal Appeals to grant legal funds to statewide professional associations and other entities that provide court security training.

Section 7 amends Section 56.004(b) of the Government Code, requiring the Legislature to appropriate funds from the Judicial and Court Personnel Training Fund to the Court of Criminal Appeals specifically for training individuals responsible for providing court security.

Section 8: Creation of the Office of Court Administration Judicial Security Division

This is a fairly large change to the organization of statewide court security continuing education, and potentially could have ripple effects within the greater court education arena that may not be fully appreciated in the short term. S.B. 42 creates an entirely new division, as specified in Chapter 72 of

the Government Code, within the Office of Court Administration. This division is required to provide a central depository of resources, expert opinions, and training on court security. This Judicial Security Division will be overseen by a director who is also responsible for implementing the process to withhold personal information of judges and their spouses in the public records. Courts across the state are no doubt interested in the resources that it will provide.

Sections 15, 24: Required Court Security Officer Training

Court security officers are essential to the safety of both court personnel and court users. One survey conducted by the Texas Attorney General found that most respondents were concerned simply by the perceived risk of potential violence due to overcrowded courtrooms and the absence of police officers.

Section 15 amends the Government Code to add Chapter 158 (Court Security Officers). In a nutshell, this chapter requires that a person may not serve as a court security officer unless that person holds a court security certification. Court security officer is broadly defined to mean a municipal peace officer or any other person assigned to provide court security. Beginning September 1, court security officers have one year to complete the certification from the time they first begin to provide court security (Officers already serving in that capacity on September 1, 2017 have until before September 1, 2019 to complete the certification).

This requirement will likely be a challenge for courts, whether large or small. For large courts, the sheer number of individuals performing court security could make meeting this requirement expensive and time consuming. For smaller courts that may borrow from the pool of available officers with the local police department on a court day, the pool may become much smaller. Some courts use private security companies. Also, both large and small courts may have difficulty cycling officers through certification in such a short time frame.

How much of a challenge this will be for courts remains to be seen. The bill does not specify what the certification entails. The current version of the court security specialist certification approved by TCOLE consists of seven courses totaling 40 hours of in-person training. Although TMCEC has provided this training there are few other providers at this time. S.B. 42 provides that TCOLE will consult with the Office of Court Administration to develop a model court security curriculum. It is possible that the curriculum will be all or part of the existing courses for the court security specialist certification, but it is also possible that it will be something else. It is unclear when that curriculum will be developed or released.

Sections 17-22, 25-26: Removal of Personal Information for Judges and Spouses

One of the most significant aspects of S.B. 42 is the protection it places on the personal information of judges and their spouses. Conspicuously, it was not just anywhere that Judge Kocurek was shot; rather, it was in the driveway of her own home. For years, privacy and court security advocates have pointed out that public records may provide a security loophole through which disgruntled defendants may seek to take out their anger on the judiciary. S.B. 42 closes loopholes in Chapters 552 and 572 of the Government Code, Chapters 13 and 15 of the Election Code, Chapter 11 of the Property Code, and Chapter 25 of the Tax Code for a variety of public records. The bill protects personal information of judges and their spouses on the voter registration form, property records, tax appraisal records, and driver's license records. Combined with similar procedures protecting the home address for court personnel in S.B. 510, it appears that the state has taken important steps to improve court security.

S.B. 43**Subject: Judicial Branch Certification Commission****Effective: September 1, 2017**

S.B. 43 amends the Government Code to make a person ineligible for appointment or service as a member of an advisory board or committee that serves the Judicial Branch Certification Commission (JBCC) on the same basis that a person is made ineligible for appointment or service as a commission member. The bill authorizes the JBCC to adopt a policy allowing employees of the Office of Court Administration to dismiss a complaint that alleges misconduct that took place more than five years before the date the complaint was filed. The bill requires the request submitted to the JBCC by a person who files a complaint that is dismissed seeking reconsideration of the complaint to be made in writing not later than the 30th day after the date of notice of the dismissal.

TMCEC: The JBCC oversees a number of court licenses and certifications, including the licensing of court reporters and licensed court interpreters. The JBCC is fairly new, having been established by the 83rd Legislature and beginning operations on September 1, 2014. At the same time, Chapter 157 of the Government Code was created, outlining requirements for licensed court interpreters. Of direct interest to municipal courts, S.B. 43 removes a reference to old law in Section 57.002(b-1) of the Government Code and updates the reference to reflect its new location in Chapter 157.

S.B. 47**Subject: Availability of Information Regarding Convictions and Deferred Dispositions for Certain Misdemeanors Punishable by Fine Only****Effective: September 1, 2017**

Concern has grown in recent years among privacy advocates as court records have become more accessible via digital format or to large data mining operations. In addition, some have argued that certain records, including convictions, for misdemeanors punishable by fine only should not be accessible due to the negative effect on housing, careers, or college. As a first step toward gathering information and addressing the issue, S.B. 47 would require the Office of Court Administration to conduct a study of records retention practices for misdemeanors punishable by fine only in different Texas counties, including local agencies. The findings will be submitted in a report to the Legislature.

TMCEC: S.B. 47 presents a bit of a potpourri of privacy issues. The bill generated interest among advocacy groups, some of which have now realized that the so-called “low-level” Class C and fine-only misdemeanors may have considerable legal consequences on conviction for the future job prospects, housing opportunities, or college for those convicted. Additionally, an on-going theme in recent years has been large data miners harvesting open records from courts in order to procure records such as deferred disposition dismissals. The law provides that dismissals following deferred disposition are not to be used for any reason; however, these data miners have the ability to harvest and sell these records to insurance companies or any other interested party. See, Ned Minevitz, “Insurance Support Organizations: Are Deferred Traffic Cases Coming Back to Haunt Defendants?” *The Recorder* (April 2016). Still other groups have been concerned about the public accessing personal data contained in court case files.

This bill has been called a first step, but it is unclear what we are stepping toward. Rhetoric surrounding the bill repeatedly labeled Class C and fine-only misdemeanors as “minor” and the “lowest” criminal offenses, yet there has also been clear acknowledgement that these offenses may have significant legal

consequences. Interestingly, traffic records are specifically excluded from the study. The report from the Office of Court Administration is due just in time for the next legislative session in 2019. Stay tuned.

S.B. 259

Subject: Granting County Authority to Use Electronic Jury Questionnaires

Effective: September 1, 2017

Current law mandates that counties send jurors a paper copy of the uniform jury questionnaire in the mail along with a jury summons, regardless of whether they can facilitate the questionnaire online. It has been suggested by some counties that supplying the questionnaires online would increase efficiency, conserve staff resources, and save taxpayer money. One county has estimated that they could save as much as \$2 million annually by offering the questionnaires online.

Moreover, some counties report juries often do not fill out the mailed questionnaires as instructed, rendering the resources spent printing and mailing the documents a waste. It is suggested that this waste could be prevented simply by hosting the questionnaires online.

S.B. 259 addresses this issue by amending Section 62.0132 of the Government Code to give counties the authority to choose whether to maintain current practice or adopt an electronic method for jury summons questionnaire submission. The electronic submission must be on the courts' website and be easily printed. If the district and criminal district judges of the county adopt a plan under Section 62.011 of the Government Code, a county may allow a person to complete and submit a jury summons questionnaire entirely on the courts website.

TMCEC: Chapter 62 of the Government Code pertains to petit juries. This is an amendment to Subchapter A (General Provisions). Chapter 62 also contains Subchapter F (Municipal Court Juries). Municipal courts have long been left with little explicit guidance as to which provisions outside Subchapter F apply to municipal courts. Most of the provisions in Chapter 62 only contemplate counties. Potentially complicating matters, some municipalities partner with counties for obtaining jurors. Accordingly, it is difficult to generalize about the application of Section 62.0132.

S.B. 302

Subject: Continuation of the State Bar

Effective: September 1, 2017

S.B. 302 is the Sunset bill for the State Bar of Texas. The State Bar is a judicial agency of the state, with statutory authority to discipline attorneys, provide continuing legal education, and aid the courts in the administration of justice. Every person who is licensed to practice law in Texas must join the State Bar. S.B. 302 continues the State Bar for the standard 12-year period, moving the agency's Sunset date, under Section 81.003 of the Government Code, from September 1, 2017, to September 1, 2029.

In addition, S.B. 302 includes a number of other changes in Chapter 81 of the Government Code to make the State Bar more efficient and transparent. For example, S.B. 302 improves the rulemaking process for disciplinary rules because the most recent attempt to revise them took about six years, alienated many attorneys, and resulted in no changes. The improved rulemaking process in S.B. 302 provides specific deadlines, public input requirements, and transparency provisions that are designed to prevent past problems from reoccurring. This new process maintains attorneys' right to vote on proposed disciplinary rules because this safeguard has served the state's legal profession well for decades. S.B. 302 also

strengthens the attorney discipline system by requiring fingerprint-based criminal background checks, reinstating the chief disciplinary counsel's investigatory subpoena power, streamlining the voluntary mediation and dispute resolution procedure, and requiring improved tracking and reporting of disciplinary case outcomes. Finally, S.B. 302 also creates a new independent ombudsman's office to monitor and help the public access the attorney discipline system.

TMCEC: To nobody's surprise, the State Bar was continued and internal politics alienated some attorneys. Attorneys should take note, however, that municipal judges and clerks are not the only ones increasingly under the microscope. Interestingly, S.B. 302 authorized the chief disciplinary counsel to create a grievance tracking system that would permit the evaluation of disciplinary trends over time. The report will be posted on the State Bar's website. Is this a response to recent high profile attorney misconduct cases?

S.B. 413

Subject: Classification of Certain Court Costs as Uncollectible in Collin County

Effective: September 1, 2017

Counties routinely attempt to collect unpaid fines, fees, or court costs as permitted by law. In many cases, court-ordered fees are collected expediently. Issues arise however, for collection efforts of defendants who are deceased or serving long prison sentences. A recent report by Collin County revealed a substantial amount of uncollectible fees over the past five years, to which the cost of collecting these fees outweighs the fees' value to the county. Counties contend that they should have the authority to remove these uncollectible fees from their record books.

S.B. 413 addresses this issue by amending Chapter 103 of the Code of Criminal Procedure and adding Article 103.0081, which allows officers to request to the court that a fee or cost imposed by the court be dropped because the officer believes the defendant is deceased, serving life imprisonment, or has been unpaid for at least 15 years.

Upon the court finding any of these conditions true, the court may order the officer to designate the fee or cost as uncollectible in the fee record. The article applies only to a county with a population of more than 780,000 but less than 790,000.

TMCEC: Uncollectable judgments are a problem across the state. The cases are technically still open until the judgment is satisfied, either taking up physical space in the courtroom or digital space on the court's servers. There is currently no legal authority to "purge" all old cases; and, unlike pre-judgment cases, these cannot be dismissed and disposed of according to the retention schedules. S.B. 413 authorizes one solution in a bill narrowly tailored to essentially apply only to Collin County, and if the population shifts more than a few thousand people in Collin County, it will not apply there either, as it only applies to counties with a population of more than 780,000 but less than 790,000. Stay steady, Collin County!

S.B. 510

Subject: Confidentiality of Home Address of Judicial Employees in Tax Records

Effective: May 27, 2017

The employees of state judges are front-line persons who routinely interact with litigants experiencing crises, including persons with extensive criminal histories and numerous mentally unstable and potentially dangerous persons. Ill-intentioned, disgruntled litigants easily may access the home address information

of those employees who own property in Texas through public property appraisal records. S.B. 510 adds the employees of state judges to the list of persons allowed to remove their residence address from tax appraisal rolls, under Chapter 25 of the Tax Code. This change allows them to protect their safety and reduces the possibility of disgruntled litigants easily finding out where they and their families live.

TMCEC: S.B. 510 is one of several bills passed this session that seeks to restrict the availability of personal information for judges and court personnel (See also, S.B. 42 and H.B. 1278). This follows the attempted assassination of Travis County District Court Judge Julie Kocurek in her home's driveway. Separately, H.B. 42 extensively restricts the personal information for judges and their spouses in several facets of daily life. S.B. 510 goes further and adds restrictions to the availability of home address information contained in tax appraisal records for the employees or former employees of federal or state judges. Interestingly, the term "state judge" in the Tax Code includes municipal judges. This means that municipal court clerks may seek to have their home address information restricted, providing an important modicum of security for front-line court personnel.

S.B. 1329

Subject: Fee for Attorneys License or Certificate

Effective: September 1, 2017

S.B. 1329 consolidates a number of changes into a single omnibus bill. Of importance to new attorneys, S.B. 1329 amends Section 51.006 of the Government Code, to increase from \$10 to \$25 the amount of the fee that the clerk of the Texas Supreme Court is required to collect for the issuance of an attorney's license or certificate affixed with a seal.

S.B. 1705

Subject: Issuance of a Marriage License and the Marriage of a Minor

Effective: September 1, 2017

In the State of Texas, minors under the age of 16 can marry with a judge's approval. Minors aged 16 and 17 can be married with parental consent and do not even have to be present to be married away by their parents. Most of these minors, who have not been emancipated, lack the same legal rights as an adult. This is known as having the disabilities of minority. These minors without the full legal rights of an adult are often marrying adults with full legal rights. This creates a situation ripe for abuse. Interested parties contend that minors attempting to marry face legal obstacles, such as lacking the right to contract, which is needed to contract with an attorney, and can be unable to legally protect themselves in a marriage proceeding before they reach the age of maturity, 18. Inexplicably, minors are removed of the disabilities of minority and are considered adults with full rights under law immediately after marriage, but not before when the ability to contract an attorney and make their own decisions could be impactful. S.B. 1705 requires a minor to petition a court for the removal of the disabilities of a minor before applying for a marriage license in Texas. In order to have the disabilities of minority removed, a minor must prove that they are a resident of Texas, 17 years of age, or at least 16 years of age and living separate and apart from their parents, managing conservator, or guardian, and self-supporting and managing their own financial affairs. The court is required to appoint an amicus attorney or attorney ad litem to represent the interest of the minor at the hearing. The court is required to issue the order removing the disabilities of the minor if it is found to be in the best interest of the minor.

S.B. 1705 ends the practice of marriage under the age of 16 in Texas and ensures that minors petitioning to marry have access to an attorney and the same legal protections as those they are marrying.

TMCEC: Child marriage has become both a national and state issue in recent years. In some instances the practice is sometimes part of human trafficking. Studies have shown that women who married as children experienced higher rates of psychiatric disorders, were more likely to drop out of high school, and are more likely to have family instability. A 2016 Pew Research Center report found that Texas had the second highest rate of child marriage, behind only West Virginia. S.B. 1705 essentially ends this practice, providing that a person under 18 years of age may not marry, and the marriage would be void, unless the person has been granted a court order removing the disabilities of minority of the person.

S.B. 1911

Subject: Self-help Resources on the Internet Website of a State Court and in the Office of the Court Clerk

Effective: September 1, 2017

There is concern that many Texans fall into what has been called a “justice gap” in which they are neither poor enough to qualify for free legal services nor affluent enough to afford legal services on their own, thus putting these pro se litigants at a disadvantage during the legal process. S.B. 1911 addresses this gap by requiring the courts of Texas to make information relating to legal self-help resources publicly available on each court’s website, if the court has a website, and in the office of the court clerk.

TMCEC: S.B. 1911 requires the “clerk of each court of this state” to provide a link to self-help legal resources available through the Office of Court Administration, link to the State Law Library’s website, and post signage concerning the resources. These could be helpful to pro se litigants attempting to navigate the legal process; and indeed, TMCEC spent much of the last academic year discussing the importance of providing pro se defendants access to accurate information.

S.B. 1911 amends Section 51.808 of the Government Code. This is not only in a section of the Government Code dealing with Electronic Filing, but also part of a larger chapter outlining procedure for county civil courts. Thus, the pro se litigant resources referenced in S.B. 1911 appear to contemplate civil cases. Although under the Code Construction Act, section titles and location are not determinative, there is a question as to whether S.B. 1911 was intended to apply to criminal courts in general and municipal courts in particular.

Putting such questions aside, there is nothing preventing courts from posting such information, but courts should be aware of the potential for confusion for defendants unfamiliar with the difference between a civil and criminal case. S.B. 1911 presents an opportunity for municipal courts throughout the state to reevaluate websites and public resources. Procedural fairness remains an important consideration in the fair administration of justice, regardless of jurisdiction.

S.B. 2053

Subject: Distribution of the Consolidated Court Cost

Effective: June 15, 2017

Section 133.102 of the Local Government Code, apportions revenue from the consolidated court cost fee to several state accounts. A recent Court of Criminal Appeals decision, *Salinas v. State*, 14-12-00378-CR (Tex. Crim. App. Mar. 8, 2017), found the allocation to two of those accounts (abused children’s counseling and comprehensive rehabilitation), to be unconstitutional, while leaving the rest of the statute and its apportionment to various programs intact. In footnote 54 of the *Salinas* opinion, the Court provides

that “[i]f the Legislature redirects the funds to a legitimate criminal justice purpose, the entire consolidated court cost may be collected.” S.B. 2053 amends the statute setting out the apportionment of this fee revenue to delete the two funds that have been found unconstitutional, and to add the percentage of the revenue that was attributed to the unconstitutional funds to the fair defense account (which helps fund the costs of appointment of counsel for indigent defendants in Texas).

TMCEC: In recent years there have been a number of cases challenging either the collection of court costs or the costs themselves as an unconstitutional tax. Essentially, the argument is that such costs have no relation to a criminal case and turn courts into tax collectors—a role that should be performed by the executive branch rather than the judiciary. See, *Peraza v. State*, 467 S.W.3d 508 (Tex. Crim. App. 2015).

The Court’s finding in *Salinas*, however, that parts of the consolidated court cost fee were unconstitutional and should be collected in accordance with this decision, sent alarm bells ringing in court administration offices across the state. This could have reduced court costs by \$3.93, potentially creating clerical logjams among the millions of cases being processed.

S.B. 2053, filed the day after the *Salinas* decision was handed down, provided an easy fix for the state. Its passage into law, effective June 15, 2017, averts the possibility of a clerical logjam. A logjam that otherwise might have occurred. The Court of Criminal Appeals denied motions for rehearing on June 28, 2017.

By removing the accounts found to be unconstitutional by the Court of Criminal Appeals, and reallocating those funds to the fair defense account, Texas can maintain the consolidated court cost fee dollar amount. The practical result, from the perspective of courts adjudicating Class C misdemeanors, is that courts will continue to collect the same \$40. The task of apportioning the funds per S.B. 2053 belongs to the State Comptroller.

S.J.R. 6

Subject: Constitutional Amendment Requiring Attorney General Notice

Effective: January 1, 2018, subject to voter approval on November 7, 2017

In the same way a court may not enter judgment against a private party who has not received notice of the litigation, federal law requires that, in a case challenging the constitutionality of a federal statute, the U.S. Attorney General must be given an opportunity to defend and challenge the law.

In 2011, the Texas Legislature passed its own version of the notice provision. Similar to the established federal law, it provided that, in an action in which a party challenges the constitutionality of a Texas statute, the Texas Attorney General is required to be notified and given 45 days to intervene. In 2014 however, the Criminal Court of Appeals held that both provisions were unconstitutional. The decision has left Texas legislative enactments open to being ruled unconstitutional without the state’s ability to defend them.

S.J.R. 6 addresses this issue by proposing a constitutional amendment to the 2011 provision found unconstitutional, amending Article V of the Texas Constitution by adding Section 32 to allow the Legislature to require a court to provide notice to the Attorney General of any petition, motion, or other pleading challenging the constitutionality of a state statute; to prescribe a reasonable period of 45 days before judgment to allow the attorney general to respond before judgment holding the statute constitutional.

Upon the pending election, the bill adds a temporary provision allowing the proposed statute to apply during the current 85th Legislature Regular Session. Section 402.010 of the Government Code is validated by this temporary provision, and applies only to a petition, motion or other pleading filed on or after January 1, 2018 to expire January 2, 2018.

TMCEC: The Court of Criminal Appeals decision that this resolution attempts to get around is *Ex Parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2014). In that case, the Court found that Section 402.010 of the Government Code was an unconstitutional violation of the separation of powers as it allows for the suspension of a court's power to enter final judgment. See Ryan Kellus Turner & Regan Metteauer, "Case Law and Attorney General Update TMCEC Academic Year 2015," *The Recorder* (November 2014) at 21.

Domestic Violence and Human Trafficking

H.B. 29

Subject: Prostitution and the Trafficking of Persons

Effective: September 1, 2017, except Section 102.102, Business & Commerce Code, takes effect March 1, 2019

The Texas Human Trafficking Task Force was established in 2009 and is coordinated through the Office of the Attorney General. The task force is a collaborative effort between state agencies, local law enforcement entities, district attorneys, and non-governmental organizations to address human trafficking from multiple perspectives.

H.B. 29 codifies the 11 recommendations of the task force. These include recommendations to improve Texas' response to human trafficking, including enhanced penalties for traffickers, providing prosecutors with additional tools for prosecution, improving victim protections, and addressing training needs. These recommendations are the product of the collaborative efforts and unanimous approval of task force members.

H.B. 29 amends current law relating to prostitution and the trafficking of persons, civil racketeering related to trafficking, the prevention, investigation, and prosecution of and punishment for certain sexual offenses and offenses involving or related to trafficking, reimbursement of certain costs for criminal victims who are children, and the release and reporting of certain information relating to a child; increases criminal penalties; and creates criminal offenses.

TMCEC: H.B. 29 is an extensive bill codifying the many recommendations of a task force that worked over a period of several years; the task force itself is changed by H.B. 29 adding representatives from the Texas Department of Licensing and Regulation, the Office of Court Administration, the Office of the Secretary of State, and the Texas Commission on Law Enforcement. Not all of the changes pertain to persons working in municipal courts or as magistrates. What follows is a summary of the relevant portions of the bill.

Criminal Offenses and Penalties

Section 1 of H.B. 29 creates a new Class C misdemeanor under Section 102.102 of the Business & Commerce Code for an owner or operator of a sexually oriented business who fails to post a sign in each restroom on the premises directing a victim of human trafficking to contact the National Human Trafficking Resource Center, as required by Section 102.101 of the Business & Commerce Code. The bill further requires that the Attorney General may prescribe specific requirements for the sign, including its physical dimensions.

H.B. 29 makes changes to the sex offender registration program under Chapter 62 of the Code of Criminal Procedure, with relation to the offense of continuous trafficking of persons.

H.B. 29 amends multiple chapters of the Penal Code including Chapters 20A, 21, 22, and 43. Notably, Sections 21.02 (Continuous Sexual Abuse of Young Child or Children), Section 21.11 (Indecency with a Child, Section 22.011 (Sexual Assault), Section 22.021 (Aggravated Sexual Assault), Section 43.25 (Sexual Performance by a Child), and Section 43.251 (Employment Harmful to Children) are all amended to specify that a person commits an offense against a child, regardless of whether the actor knows the age

of the victim at the time of the offense. Chapter 43 is amended with regard to prostitution, clarifying that a “fee” in exchange for sexual conduct, can be in the form of money, goods, services, or other benefit. Also in Chapter 43, the offense of Aggravated Promotion of Prostitution is changed to a felony of the second degree, rather than third degree, except that it is a felony of the first degree if the actor uses a prostitute younger than 18 years of age, regardless of whether the actor knew the age of the person knew the age of the person at the time of the offense.

Online Service Provider

Multiple sections of H.B. 29 update the Code of Criminal Procedure to use the term “online service provider” as opposed to “Internet service provider.” Article 24A.0015 defines “online service provider” to include Internet service provider, as well as a search engine, web hosting company, web browsing company, manufacturer of devices providing online application platforms, or a company providing online social media platforms. Conforming changes are made in Articles 24A.001, 24A.002, 24A.003, and 24A.051 of the Code of Criminal Procedure.

Conduct Indicating a Need for Supervision

The 84th Regular Legislature left us with three different versions of Section 51.03(b) of the Family Code. H.B. 29 reenacts and consolidates the separate versions into one. H.B. 29 amends the general expunction provision in Article 45.0216 of the Code of Criminal Procedure to reflect the change in the Family Code.

H.B. 1808

Subject: Creation of the Offense of Sexual Coercion and Elimination of Knowledge of Age as a Defense for Certain Crimes Involving a Minor

Effective: September 1, 2017

Concerns have been raised that some individuals who have solicited a prostitute who is a minor have been able to use the defense that they were not aware of the prostitute’s age at the time of the solicitation. H.B. 1808 addresses this defense of lack of knowledge concerning a victims age by amending Section 21.02 (Continuous Sexual Abuse of Child), Section 21.11 (Indecency with a Child), Section 22.011 (Sexual Assault), Section 22.021 (Aggravated Sexual Assault), Section 43.25 (Sexual Performance by a Child), and Section 43.251 (Employment Harmful to Children) of the Penal Code to state that an offense committed under these sections constitute a crime, regardless of whether the person knows the age of the victim at the time of the offense.

H.B. 1808 also amends Chapter 21 of the Penal Code by creating the offense of sexual coercion in Section 21.18. A violation occurs when a person intentionally coerces a victim to engage in sexual conduct or to produce intimate visual material, or provide a valuable benefit, by means of threatening to commit an act of violence or a sexual offense such as human trafficking, sexual abuse of a child, or other sexually related offenses if the victim does not comply. Violators of this law would be subject to a state jail felony. If a person has been previously convicted of a sexual offense, then they are subject to a third degree felony.

Section 21.18 applies to threats regardless of how they are communicated, including threats transmitted through email, websites, social media, chat room, and threats made by other electronic or technological means. An offense committed under this section is a state jail felony and may be enhanced for prior offenses under this section.

H.B. 1808 amends the Section 22.011, Penal Code (Sexual Assault) to include assaults accomplished by coercion or threat of harm to the victim. Current law reflects antiquated stereotypes of a “stranger in the

bushes” by requiring proof that a sexual assault defendant used or threatened to use physical force or violence. Sexual assault is always a violent act, whether accomplished by physical force or threats of other serious harm.

Lastly, H.B. 1808 amends Section 22.021(a) of the Penal Code (Aggravated Sexual Assault) to clarify that an offense is committed under this section if a person administers or provides any substance capable of impairing a victim’s ability to appraise the nature of the act or to resist the act with the intent of facilitating a sexual assault.

TMCEC: Currently, there are two versions of Section 21.16 of the Penal Code, due to separate bills passed in the 84th Legislature. Due to these two different provisions, H.B. 1808 had to create two versions of the new offense of sexual coercion so that it would become law regardless of whether the 85th Legislature corrects the differing Sections of 21.16.

The age defense for many of the crimes against children is also eliminated in H.B. 29.

H.B. 2529

Subject: Definition of “Coercion” as Related to Trafficking of Persons

Effective: September 1, 2017

H.B. 2529 amends Trafficking of Persons (Section 20A.02 of the Penal Code) to specify that the definition of “coercion” into prostitution includes destroying, concealing, confiscating, or withholding (or threatening to destroy, conceal, etc.) a trafficked person’s government records or identifying information or documents.

H.B. 2552

Subject: Deterrence of Sexual Offenses and Human Trafficking

Effective: September 1, 2017

Human trafficking is prevalent throughout Texas and the United States but often goes unreported. Due to the clandestine nature of the crime, identifying victims is notoriously difficult. A recent report by the University of Texas at Austin’s Institute on Domestic Violence & Sexual Assault estimates that there are over 300,000 victims of human trafficking in Texas. Texas is second only to California in human trafficking incidents reported to the National Human Trafficking Hotline; 670 cases were reported in 2016.

Additionally, all across Texas, thousands of businesses claiming to offer massage services are actually fronts for human trafficking and compelling prostitution. These illicit massage parlors attract crime to those locations and many times are unlicensed.

H.B. 2552 strengthens Texas’ response to the ongoing problems of human and sex trafficking by building upon current nuisance and abatement law under Chapter 125 of the Civil Practice and Remedies Code. This helps local governments shut down illicit massage parlors. The bill also provides a means for collecting data on prostitution arrests and outcomes, closes a loophole in the promotion of prostitution statute, and provides a means for property owners to evict businesses that are engaging in human trafficking.

H.B. 2552 amends Section 21.16 of the Penal Code (Voyeurism) raising the punishment from a Class A misdemeanor to a state jail felony. Section 21.18 (Sexual Coercion) is added making a state jail felony of the use of intentional threats including coercion or extortion to commit certain sex crimes. This offense can be enhanced to a felony in the third degree if it is shown at trial that the defendant has previously been convicted of an offense under this section.

H.B. 2552 amends Section 22.01 of the Penal Code (Assault) to specify that an assault committed against a pregnant individual to force the individual to have an abortion is a felony of the third degree if it causes bodily injury or a Class A misdemeanor if it results in offensive or provocative contact.

TMCEC: H.B. 2552 is one of two bills creating the offense of Sexual Coercion in the 85th Legislature; the other is H.B. 1808. In addition, there are two versions of Voyeurism, due to separate bills passed in the 84th Legislature. H.B. 2552 raises the punishment for one version to a state jail felony, but does not amend the other version, which may be punished as a Class C misdemeanor.

H.B. 3649

Subject: Confidential Communications of Family Violence Victims

Effective: September 1, 2017

Thirty-nine states have some form of enhanced state-level victim information privacy protections for victims of domestic violence. However, Texas lacks strong legal protections for private conversations between domestic violence victims and their family violence advocates.

Currently, batterers or others who seek this information can obtain these private conversations with a court subpoena. As a result, advocates document little information in victim files, significantly reducing their usefulness.

H.B. 3649 shields information that family violence survivors share with victim advocates from disclosure, ensuring they can seek assistance without fear that their story will be used against them. H.B. 3649 adds Chapter 93 (Confidential and Privileged Communications) to the Family Code creating confidential communication and records for victims of domestic violence to protect them from their abuser.

S.B. 256

Subject: Increased Access to the Address Confidentiality Program

Effective: May 19, 2017

S.B. 256 makes changes to Chapter 56 of the Code of Criminal Procedure to protect the confidentiality of home addresses for victims of family violence, sexual assault, human trafficking, or stalking. The bill also clarifies that a person participating in the Address Confidentiality Program (ACP) administered by the Texas Attorney General is eligible to have their address kept confidential within these records.

While victims may obtain protective orders, those writs do not require the redaction of their home addresses from public records. Specifically, both the property tax appraisal records maintained by county appraisal districts and the voter registration rolls maintained by county voter registrars are not required to have victims' addresses classified as confidential. This creates a loophole where, even though an offender may be barred from interacting with a victim pursuant to a protective order, that person may still search public records for the victim's home address once the order has expired. Furthermore, even if victims do not seek a protective order, their address may be discovered by the offender within public tax appraisal and voter registration records. S.B. 256 fixes these loopholes in Chapter 13 of the Election Code and Chapter 25 of the Texas Code by specifying that the home address of any person eligible for a protective order for family violence, sexual assault, trafficking, or stalking be classified as confidential within tax appraisal and voter registration records.

S.B. 256 modifies the ACP to broaden eligibility for victims' participation in the program. Currently, a person must meet several eligibility requirements, including meeting with a counselor and filing an application, in order to participate in the ACP. Once enrolled, the ACP provides a confidential mailing address for victims, allowing them to avoid unwanted detection. S.B. 256 broadens the classes of individuals eligible to participate in the ACP to include persons with a protective order for family violence, sexual assault, human trafficking, or stalking.

TMCEC: Recent years have seen an increase in data miners and others seeking to cull public records for personal information on individuals. This is relatively easy to do as public records are generally presumed to be open for inspection. This may present security issues, however, when those public records reveal personal information on individuals such as judges, court personnel, or victims of crimes. While information such as home address may be redacted from court documents or through court records requests, the records held by other public entities remain open. Essentially, it is a loophole to those willing to exploit it. S.B. 256 continues a trend this session to limit public access to these types of records for security reasons.

S.B. 257

Subject: Judicial Review of Protective Orders

Effective: September 1, 2017

Victims of sexual assault or abuse, stalking, or human trafficking have eligibility to receive court-issued protective orders (Section 85.001, Family Code). Such orders are distinct from the Magistrate's Orders of Emergency Protection (Article 17.292, Code of Criminal Procedure).

While the duration of protective orders may last as long as the life of the victim or perpetrator, a loophole in state law currently enables perpetrators to challenge these terms. Specifically, perpetrators can re-litigate protective orders by calling both parties back into court to demonstrate a "continuing need," or potential threat of future violence, even though applicants for sexual assault, stalking, and human trafficking protective orders need not prove a threat of future violence to obtain the order in the first place. This effectively adds an additional evidentiary burden on victims of sexual assault, stalking, and human trafficking for the duration of the order that they were not required to satisfy at the time the order was issued. If the additional benchmark of threat of future violence is not met, a protective order may terminate prematurely, even if originally issued for life. This makes sexual assault protective orders harder to maintain than they were to originally acquire. Further, a perpetrator may challenge a protective order annually without limit.

S.B. 257 reforms the protective order re-litigation process by closing this loophole. The amended Section 85.025 of the Family Code limits a perpetrator's ability to challenge a protective order issued to family violence victims for longer than two years to two instances. The first of two motions may not be filed earlier than one year after the original order was rendered. If the duration of the protective order exceeds two years, then a second motion may not be filed earlier than one year after the conclusion of the first motion. Further, the bill exempts protective orders issued to child abuse and sexual assault victims from further challenge by their assailant.

S.B. 920

Subject: Access to Residence to Retrieve Property when Danger of Family Violence Exists

Effective: September 1, 2017

Last session, H.B. 2486 created a procedural process by which individuals can seek help in entering the home for the limited purpose of retrieving certain property. The law was meant to help people who have

reported being unable to access prescription medications and/or necessities that they need to care for themselves or their children upon being suddenly dispossessed of access to their residence.

This difficult situation is only exacerbated in cases of domestic violence, when a person is in fear of returning to their residence to retrieve necessary personal belongings due to circumstances creating a severe risk to their health and safety. In these situations, it may be necessary, for the protection of a person or their dependents, for a court to take the extraordinary step of undertaking an ex parte court proceeding in order to allow a person to enter a property to retrieve important personal property.

S.B. 920 allows a justice court to issue a temporary ex parte writ under the new Section 24A.0021 of the Property Code authorizing entry and property retrieval to a residence if the current occupant poses a clear and present danger of family violence to an applicant or to an applicant's dependent. In issuing this writ, a justice of the peace may waive the bond requirements and the requirement that the current occupant be given notice and opportunity to be heard. A person granted this writ may only enter their residence if accompanied by a peace officer, and may only retrieve the items specifically authorized to be retrieved.

S.B. 1203

Subject: Subpoenas and Court Orders for Online Service Providers in the Investigation or Prosecution of Criminal Offenses
Effective: September 1, 2017

Current state law provides that an Internet service provider must respond within 10 days (or petition the court to excuse from compliance) to a subpoena, search warrant, or other court order in connection with an investigation or prosecution of certain crimes involving children.

Internet service providers must also comply within two business days if the subpoena, search warrant, or other court order pertains to a life-threatening situation, as well as preserve all records or potential evidence for a period of 90 days after the issuance of a subpoena, search warrant, or other court order.

S.B. 1203 amends Subchapter 24A of the Code of Criminal Procedure (Responding to Subpoenas and Certain Other Court Order; Preserving Certain Information), to expand the 10-day expedited response requirement to apply to human trafficking and other sex offenses. The bill also replaces "Internet service provider" with "online service provider" to ensure applicability to online entities that may have critical information that is relevant to a case involving trafficking of children and other offenses.

S.B. 1242

Subject: Applicant of a Protective Order's Use of an Alternative Mailing Address
Effective: September 1, 2017

In keeping with best practices for victims of family violence, applicants seeking a protective order in Texas must only provide their name and county of residence to initiate the order, not an address. However, the "Contents of Notice of Application" does require a mailing address. Individuals who are represented by an attorney are instructed to use the attorney's address, but those without an attorney must provide their own address. This same statute notes that the respondent is entitled, but not required, to file a written answer.

This puts undue burden on those without an attorney, who are more likely to be low-income, and it creates a risk to their safety by not safeguarding their address. S.B. 1242 would address these issues by adding

Section 82.011 of the Family Code that allows an applicant to designate another person to receive written correspondence on their behalf. The court retains the applicant's address but makes it accessible only to the court and to law enforcement to enter into confidential database.

S.B. 1242 also amends Section 411.042 of the Government Code, changing the statute that the bureau of identification and records follows regarding the collection of information on protective orders and magistrate's orders of emergency protection from Section 85.007 of the Family Code to Article 17.292 of the Code of Criminal Procedure.

S.B. 1250

Subject: Admissibility of Certain Evidence in the Prosecution of Family Violence Offenses

Effective: September 1, 2017

Currently, Article 38.371 (Evidence in Prosecutions of Certain Offenses Involving Family Violence), Code of Criminal Procedure, permits the introduction of testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed assault or aggravated assault, or violated various types of restraining orders, when the alleged victim was in a dating relationship with the accused, or a member of the same family or household. This includes testimony or evidence regarding the nature of the relationship between the actor and the alleged victim.

Due to the vulnerable nature of the potential victims and the underreported nature of crimes against such persons, S.B. 1250 expands this evidentiary provision to apply to the offense of Injury to a Child, Elderly Individual, or Disabled Individual (Section 22.04, Penal Code).

Juvenile Justice and the Interests of Children

H.B. 351/S.B. 1913

Subject: Community Service for Juveniles

Effective: September 1, 2017

See, Summary of H.B. 351/S.B. 1913, Sections 18-20/Sections 17-19.

H.B. 2059

Subject: Expunction of Conviction or Arrest Records of a Minor

Effective: September 1, 2017

Section 106.12 of the Alcoholic Beverage Code, as amended, expands the statutory authority for a minor subject to either a custodial or noncustodial arrest for an offense under the Alcoholic Beverage Code. Under current law, Section 106.12 only applies to convictions.

Subsection (c) is amended to include prosecutorial and law enforcement records among the items to be expunged from the applicant's record if a court finds that the applicant was not convicted of any other offense under the Alcoholic Beverage Code while a minor.

Subsection (d) authorizes any person placed under a custodial or noncustodial arrest for not more than one violation of this code while a minor and who was not convicted of the violation to apply to the court in which the person was charged to have the records of the arrest expunged. The application must contain the applicant's sworn statement that the applicant was not arrested for a violation of this code other than the arrest the applicant seeks to expunge. If the court finds the applicant was not arrested for any other violation of the Alcoholic Beverage Code while a minor, to order all complaints, verdicts, prosecutorial and law enforcement records, and other documents relating to the violation to be expunged from the applicant's record.

Subsection (f) provides that the procedures for expunction are separate and distinct from the expunction procedures under Chapter 55 of the Code of Criminal Procedure.

These amendments apply to the expunction of arrest records made before, on, or after the effective date of H.B. 2059.

S.B. 30

Subject: Police and Citizen Interaction Education; Community Safety Education Act

Effective: September 1, 2017

S.B. 30 adds Section 28.012 of the Education Code (Instruction on Interaction with Law Enforcement) and Section 1701.268 of the Occupations Code (Civilian Interaction Training Program) requiring the Texas Commission on Law Enforcement (TCOLE) and the State Board of Education (SBOE) to coordinate with each other to create curriculum relating to peace officer and civilian's rights and responsibilities during traffic stops and other in-person encounters including the presentation of proof of identification. The bill makes an amendment to Section 28.025 and adds Section 1001.109 of the Education Code (Information Relating to Traffic Stops), making SBOE responsible for adopting rules to incorporate this training into

required high-school education (grades 9-12) and TCOLE responsible for adopting similar curriculum into driver education and driving safety courses.

S.B. 30 amends Section 1701.253 of the Occupations Code adding civilian interaction as part of the minimum curriculum requirements for officers to complete in basic training or by the second anniversary of the date the officer is licensed.

S.B. 179

Subject: Cyber Bullying; David's Law

Effective: September 1, 2017

S.B. 179 amends Section 37.0832 of the Education Code redefining “bullying” to include “cyberbullying” (bullying that is done through the use of any electronic communication device). Section 37.0832 also requires the board of trustees for each school district to adopt a policy to prohibit, prevent, and mediate bullying incidents that occur in certain locations and have certain effects. New Section 37.0052 of the Education Code authorizes a student to be removed from class and placed in a disciplinary alternative education program or expelled under certain circumstances including bullying that encourages suicide.

Added Section 37.0151 of the Education Code authorizes a principal or designee of the principal to make a report to law enforcement if it is reasonably believed that a student has committed Assault (Section 22.01, Penal Code) or Harassment (Section 42.07, Penal Code). Under certain circumstances, harassment can be enhanced to a Class A misdemeanor if it entails an electronic communication, if the intent was to cause a minor to commit suicide or otherwise harm themselves, or if the harassment is in violation of a restraining order or injunction issued under Chapter 129A of the Civil Practice and Remedies Code. The bill adds Section 129A.001 of the Civil Practice and Remedies Code to allow a court to grant a temporary restraining order or temporary or permanent injunctive relief for minors against an individual who engages in cyberbullying.

S.B. 966

Subject: Defenses to MIP and MIC and Reporting Sexual Assault

Effective: September 1, 2017

As amended, Section 106.04 of the Alcoholic Beverage Code (Consumption of Alcohol by a Minor) and Section 106.05 of the Alcoholic Beverage Code (Possession of Alcohol by a Minor) establish new defenses in certain circumstances involving the reporting of sexual assault.

The defense can be raised by a minor who is sexually assaulted or who reports a sexual assault if the report is made to: (1) a health care provider treating the victim; (2) a law enforcement employee, including an employee of a campus police department at a higher education institution; or (3) a Title IX coordinator or other employee responsible for responding to sexual assault at a higher education institution.

A minor is entitled to raise the defense only if consuming or in possession of alcohol at the time the reported sexual assault took place. The defense is not available to a minor who committed the reported sexual assault.

S.B. 1152**Subject: Excused Absences for Students Seeking to Enlist in the Armed Services of the United States or the Texas National Guard****Effective: September 1, 2017**

While high school students are allowed two days junior year and two days senior year to visit an institution of higher education, Texas law provides no similar allowance for students planning to join a United States military branch or the Texas National Guard.

According to the different recruiters of the U.S. military, the maximum number of days needed to complete tests, medical readiness, legal appointments, and career counseling in order to enlist in the military for a high school student is four days. The student is penalized for any absence(s) for required appointments and visits. The absences do not count towards a day of compulsory attendance and school districts are unable to count absences related to this process towards their calculation of the average daily attendance.

As amended, Section 25.087 of the Education Code allows a school district to excuse a student who is 17 years of age or older for up to four days for the entirety of their high school career from attending school to pursue enlistment in a branch of the armed services of the U.S. or Texas National Guard. These excused days can be used to complete tests, medical readiness, legal appointments, or career counseling. The district is also expected to verify the student's absence.

S.B. 1571**Subject: Release of a Child Taken into Possession by a Law Enforcement Officer****Effective: September 1, 2017**

Law enforcement officers periodically need to take possession of a child without a court order, most often in cases involving suspected human trafficking or other abuse. S.B. 1571 amends the Code of Criminal Procedure by adding Article 2.273 (Release of Child by Law Enforcement Officer) to state that an officer who takes possession of a child in an emergency situation without a court order may release the child to a residential child-care or other authorized facility licensed by the Department of Family and Protective Services (DFPS) or to DFPS, a juvenile probation department, or to any person authorized by law to take possession of the child.

Before an officer may release a child to a person or governmental entity authorized by law, the officer must verify and obtain certain information related to the child and the person to whom the child is being released, and maintain a record of the child's placement and specified identifying information.

Law Enforcement

H.B. 34

Subject: Procedures to Prevent Wrongful Convictions

Effective: September 1, 2017

H.B. 34 implements recommendations from a study examining certain criminal cases in Texas in which an innocent defendant was convicted and subsequently exonerated.

Section 1 adds Articles 2.023 and 2.32 of the Code of Criminal Procedure requiring attorneys representing the State to track use of certain testimony and requiring law enforcement agencies to make electronic recordings of custodial interrogations of persons in a place of detention charged with the commission of certain offenses (unless good cause as described by Article 2.32(d) exists). The bill adds Section 9 to Article 38.22 of the Code of Criminal Procedure requiring the procedures in Article 2.32 to be followed in order for statements to be admissible against the accused.

Section 2 adds Article 2.1386 of the Code of Criminal Procedure requiring the Texas Commission on Law Enforcement to establish a comprehensive education and training program on eyewitness identification. Each law enforcement agency shall require peace officers that perform eyewitness identification procedures to complete the education and training.

Section 4 amends Article 38.20 of the Code of Criminal Procedure (Photograph and Live Lineup Identification Procedures) requiring law enforcement agency policies to include certain information regarding evidence-based practices. Notably, a witness who makes an identification based on a photograph or live lineup identification procedure shall be asked immediately after the procedure to state, in the witness' own words, how confident the witness is in making the identification. The law enforcement agency shall document the statement.

New Subsection (c) of Section 5 of Article 38.20 of the Code of Criminal Procedure provides that eyewitness identification is admissible into evidence against the accused only if the evidence is accompanied by the details of each prior photograph or live lineup identification made of the accused by the witness, including the manner in which the identification procedure was conducted. This change applies to a witness who has previously made an out-of-court photograph or live lineup identification of the accused that makes an in-court identification.

H.B. 34 amends Article 39.14 of the Code of Criminal Procedure (Discovery) by adding Subsection (h-1) regarding statements made against the defendant's interest while the person was imprisoned or confined in the same correctional facility as the defendant, requiring certain disclosures to the defendant. Section 3 amends Article 38.075 of the Code of Criminal Procedure authorizing evidence of a prior offense for purposes of impeachment if the person received a benefit described by Article 39.14(h-1)(2).

The bill also requires the Texas Forensic Science Commission to conduct a study regarding the use of drug field test kits and a crime scene investigation study.

H.B. 263**Subject: Issuing “Back the Blue” Specialty License Plates****Effective: September 1, 2017**

In light of recent attacks against law enforcement, H.B. 263 adds Section 504.668 of the Transportation Code requiring the Department of Motor Vehicles to issue specialty license plates that include a thin blue line and the words, “Back the Blue.” After deduction of administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to a certain account for the use of the Employees Retirement System of Texas to provide financial assistance to survivors of peace officers under Chapter 615 of the Government Code.

H.B. 297**Subject: Designation of January 9 as Law Enforcement Appreciation Day****Effective: September 1, 2017**

Inspired by the tragic events that took place in downtown Dallas in 2016, H.B. 297 adds Section 662.065 of the Government Code, designating January 9 as Law Enforcement Appreciation Day. Texas joins the growing list of entities observing the national event. The bill allows the day to be regularly observed in public schools and other places and requires the Texas Education Agency to develop recommendations for observation through appropriate activities in public schools.

TMCEC: See also, H.B. 3042, which designates July 7 as Fallen Law Enforcement Officer Day.

H.B. 457**Subject: Confidentiality of Home Address of a Spouse, Surviving, Spouse, and Adult Child of a Peace Officer in Tax Records****Effective: June 15, 2017**

Inclusion of certain home address information concerning certain family members of a peace officer in local property tax appraisal records defeats the purpose of allowing peace officers to restrict public access to such information about themselves in the records because family members often have the same last name as the peace officer. H.B. 457 enhances the privacy and safety of certain family members of a peace officer by providing for the confidentiality of certain home address information in property tax appraisal records.

The bill amends Section 25.05 of the Tax Code, adding the spouse or surviving spouse of a current or former peace officer and the adult child of a current peace officer to the list of individuals who can choose to restrict public access to information in appraisal records, including name and address.

H.B. 873**Subject: Peace Officers or Special Investigators Carrying Weapons on the Premises of Establishments Serving the Public****Effective: September 1, 2017**

A number of public venues prevent individuals from entering the venue with weapons, including off-duty peace officers. Such policies pose a safety risk as an off-duty peace officer may be called on to take action

in self-defense or in defense of the safety and well-being of the public. H.B. 873 adds Article 2.1305 of the Code of Criminal Procedure, which prohibits an establishment serving the public from prohibiting or otherwise restricting a peace officer or special investigator from carrying on its premises a weapon that the peace officer or special investigator is otherwise authorized to carry. This is regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon.

An "establishment serving the public" means a hotel, motel, or other place of lodging; a restaurant or other place where food is offered for sale to the public; a retail business or other commercial establishment or an office building to which the general public is invited; a sports venue; and any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

H.B. 3042

Subject: Designation of July 7 as Fallen Law Enforcement Officer Day

Effective: June 15, 2017

H.B. 3042 adds Section 662.066 of the Government Code designating July 7 as Fallen Law Enforcement Officer Day. This bill creates the opportunity for all Texans to stand together in recognizing and honoring the bravery shown by those who make the ultimate sacrifice in order to protect us.

TMCEC: Five officers lost their lives in the shooting in downtown Dallas on July 7, 2016. The shooting was the deadliest incident for U.S. law enforcement since the September 11 attacks.

S.B. 1138

Subject: Creation of the Blue Alert System to Aid in Apprehending Individuals Suspected of Killing or Causing Serious Bodily Injury to a Law Enforcement Officer

Effective: September 1, 2017

S.B. 1138 adds Subchapter P to Chapter 411 of the Government Code (Blue Alert System). The bill requires the Department of Public Safety, with the cooperation of the Texas Department of Transportation, the Office of the Governor, and other appropriate law enforcement agencies in Texas, to develop and implement a statewide blue alert system to be activated to aid in the apprehension of an individual suspected of killing or causing serious bodily injury to a law enforcement officer, defined by the bill as a person who is a peace officer under the Code of Criminal Procedure or a person who is an applicable federal law enforcement officer.

S.B. 1253

Subject: Electronic Recording and Admissibility of Certain Custodial Interrogations

Effective: September 1, 2017

S.B. 1253 adds to the Code of Criminal Procedure, Article 2.32 (Electronic Recording of Custodial Interrogations) which requires law enforcement agencies to make electronic recordings of custodial interrogations of persons in a place of detention charged with the commission of certain offenses (unless good cause as described by Article 2.32(d) exists).

The bill also adds Section 9 to Article 38.22 of the Code of Criminal Procedure requiring the procedures in Article 2.32 to be followed in order for statements to be admissible against the accused.

TMCEC: Identical amendments are found in sections of H.B. 34, which makes more comprehensive changes, including eyewitness identification admissibility, law enforcement policies on photograph and live lineup identification procedures, and discovery.

Local Government

H.B. 1111

Subject: Authority of General-Law Municipalities to Regulate Sex Offenders in Child Safety Zones

Effective: September 1, 2017

H.B. 1111 adds Section 341.906 of the Local Government Code (Limitations on Registered Sex Offenders in General-Law Municipalities).

Subsection (a) defines “child safety zone,” “playground,” “premises,” “school,” “video arcade facility,” “youth center,” and “registered sex offender.”

Subsection (b) authorizes the governing body of a general-law municipality to restrict by ordinance a registered sex offender from going in, on, or within a specified distance of a child safety zone in the municipality. Subsection (d) authorizes the ordinance to establish a distance at any distance of not more than 1,000 feet.

Subsection (c) provides an affirmative defense to prosecution of an offense under the ordinance that the registered sex offender was in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex offender is legally permitted to be with, transportation to and from work, and other work-related purposes.

Subsection (e) requires that the ordinance establish procedures for a registered sex offender to apply for an exemption from the ordinance.

Subsection (f) requires that the ordinance exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date the ordinance is adopted. Such an exemption must apply only to areas necessary for the registered sex offender to have access to and to live in the residence and only to the period the registered sex offender maintains residency in the residence.

H.B. 1278

Subject: Personal Information of Certain Current and Former Prosecutors and Employees

Effective: June 15, 2017

H.B. 1278 amends provisions in Chapter 552 of the Government Code and Section 25.025 of the Tax Code relating to the public availability of personal information of current or former district attorneys, criminal district attorneys, and county or municipal attorneys whose jurisdiction includes any criminal law or child protective services matters.

It similarly prohibits the disclosure of such personal information for current or former employees of a district attorney, criminal district attorney, county attorney, or municipal attorney whose jurisdiction includes any criminal law or child protective services matters.

TMCEC: H.B. 1278 provides increased protection from reprisal for former or current public attorneys or court employees working in jurisdictions that include criminal law or child protective services by limiting public access to their home address, home telephone number, emergency contact information, social

security number or whether the individual has family members. This information is protected, regardless of current or previous compliance with sections electing to disclose home address and telephone number.

H.B. 1449

Subject: Prohibition of Fees on New Construction

Effective: May 29, 2017

Fees and exactions imposed by political subdivisions to fund subsidized housing materially increase the cost of housing construction in Texas. Limiting regulatory burdens on home construction can increase home affordability for all Texans.

H.B. 1449 adds Section 250.008 of the Local Government Code prohibiting political subdivisions from adopting or enforcing a charter provision, ordinance, order, or other regulation that imposes, directly or indirectly, a fee on new construction for the purpose of offsetting the cost or rent of any unit of residential housing. The bill stipulates that this rule does not apply to certain tax and fee abatement programs.

H.B. 1468

Subject: Regulation of Artificial Swimming Lagoons

Effective: June 15, 2017

H.B. 1468 amends Section 341.064 of the Health and Safety Code (Swimming Pools and Bathhouses) to include artificial swimming lagoons. As amended, artificial swimming lagoons, like public swimming pools, may be required by a municipality to obtain a permit for operation. Local governments may also enforce compliance with Section 341.064.

TMCEC: Somewhere between a swimming pool and a lake, an artificial swimming lagoon is a man-made body of water meant to simulate a beach environment. These lagoons can be rather large, have sandy sloping entrances, and advanced water treatment (non-chlorine) systems. The two being built in Texas are part of master-planned communities meant to attract home buyers like a golf course or hike-and-bike trail. One set for construction near Rowlett on Lake Ray Hubbard is projected to have an 8.5-acre surface area.

H.B. 1619

Subject: Prosecution and Punishment of Certain Outdoor Burning Violations

Effective: September 1, 2017

Persons burning certain items may not be aware they are prohibited or that such items are in violation of Chapter 382 of the Health and Safety Code (The Texas Clean Air Act). Because the current punishment is severe and requires a formal arrest, H.B. 1619 makes the first violation a Class C misdemeanor.

H.B. 1619 amends Section 382.018 of the Health and Safety Code (Outdoor Burning of Waste and Combustible Material) providing that conduct that violates a rule adopted by the Texas Commission on Environmental Quality (TCEQ) and also violates a municipal ordinance may only be prosecuted as a city ordinance violation as long as the violation is not a second or subsequent violation of either the state rule or local ordinance and the violation does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes. In spite of a contrary provision in the Water Code, provisions and rules adopted under Section 382.018 may be enforced by a peace officer.

Amended Section 7.187 of the Water Code makes a conviction for an offense under Section 382.018 punishable as a Class C misdemeanor as long as the violation is not a second or subsequent violation of

that provision and does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes. A second violation is a Class B misdemeanor. A subsequent violation is a Class A misdemeanor.

H.B. 2486

Subject: Reemployment of Employees of Political Subdivisions after Military Deployment

Effective: June 15, 2017

H.B. 2486 amends Section 437.202 of the Government Code, adding employees of a county, a municipality, and other political subdivisions with more than five employees who serve in either the federal or state military, a reserve component of the armed forces, or are members of a state or federally authorized urban search and rescue team to the list of individuals entitled to be restored to the same position held prior to being ordered to duty. Under current law, Section 437.202 only applies to employees of state government.

H.B. 3223

Subject: Civil Liability for Damages Resulting from Sale of Retired Patrol Cars

Effective: September 1, 2017

The sale of retired patrol vehicles to the general public can create a risk of criminals using such vehicles with the intent of impersonating a law enforcement officer. Removing equipment or insignia that could lead a reasonable person to believe that the vehicle is a law enforcement vehicle prior to sale reduces this risk.

H.B. 3223 amends Section 272.006 of the Local Government Code creating civil liability for a municipality that sells a law enforcement motor vehicle which has not had all the indicia of law enforcement removed.

The bill likewise creates civil liability in Section 728.022 of the Transportation Code for a person selling law enforcement vehicles that still have indicia of law enforcement mirroring the prohibitions outlined in Section 272.006 of the Local Government Code.

H.B. 3257

Subject: Inspection and Regulation of Portable Boilers

Effective: May 29, 2017

Prior to the passage of H.B. 3527, a portable power boiler was required to be inspected externally each time the boiler was moved to a new location and had to receive an internal inspection at least annually. H.B. 3257 amends Section 755.001 and Section 755.022 of the Health and Safety Code to require the Texas Commission of Licensing and Regulation to establish the subsequent intervals and manner of inspection for a portable boiler.

Notably, the amendment of Section 755.022 of the Health and Safety Code also exempts espresso machines from state law relating to boilers. Added Section 755.071 prohibits a state agency or local government from restricting the use or installation of a specific fuel gas pipe product that is approved for use and installation by the International Fuel Gas Code.

H.B. 3433

Subject: Consideration of Rural Communities in State Agencies' Adoption of Rules

Effective: September 1, 2017

Under current law, Chapter 2006 of the Government Code (Agency Actions Affecting Small Businesses) only pertains to the affect state rules may have on small businesses. Chapter 2006 contains measures aimed at preventing unintended adverse economic effects caused by such rules created by state agencies. State agencies do not give similar consideration to the impact that the adoption of an agency rule will have on rural communities.

H.B. 3433 amends Chapter 2006 to include rural communities. A rural community is defined in Section 2006.001 of the Government Code as a municipality that has a population of less than 25,000.

S.B. 1004

Subject: Deployment of Network Nodes in Public Right-of-Way

Effective: September 1, 2017

Rapid innovation of wireless devices and applications along with sharp increases in use has put pressure on telecommunications companies to replace existing equipment to provide more capacity. The construction of “network nodes” in the public right-of-way (managed by municipalities) is an efficient method to provide increased network capacity. Current provisions in the Local Government Code which cover right-of-way access for telecommunications providers are 15 years old and do not account for this new technology. This has resulted in uncertainty, confusion, disputes, and disparate treatment among cities and telecommunications providers.

To address these problems, S.B. 1004 adds Chapter 284 of the Local Government Code, which regulates the deployment and maintenance of network nodes (affixed equipment that enables wireless communications) in a public right-of-way.

S.B. 1172

Subject: Regulation of Seed by Local Governments

Effective: September 1, 2017

As the population of Texas grows so does its food and fiber needs. Inconsistent and burdensome laws can restrict farmers' ability to produce. S.B. 1172 creates uniformity in the application of seed regulation across the state to address this issue.

The bill adds Section 61.019 of the Agriculture Code prohibiting a local government from regulating any seed in any manner; any order or ordinance to the contrary is void. A local government may, however, take action prohibited by Section 61.019 in order to comply with federal or state laws or to implement a water conservation or drought contingency plan.

Section 61.019 does not preempt local governments from adopting or enforcing zoning regulations, fire codes, building codes, storm water regulations, nuisance regulations as authorized by Section 342.004 of the Health and Safety Code (Municipal Power Concerning Weeds or Certain Public Nuisances), or waste disposal restrictions.

S.B. 1248

Subject: Regulation of Manufactured Homes

Effective: September 1, 2017

Manufactured home communities sometimes exist within a municipality in violation of zoning rules, for example, when a municipality annexes the territory of the manufactured home community. Typically, these nonconforming communities are granted a zoning variance but sometimes municipalities interpret their local nonconforming use and abandonment ordinances in a manner that upon removal of an existing manufactured home, replacement manufactured homes would not be allowed. This creates a disincentive to update the homes in a community with newer homes. Community owners must keep older homes they would otherwise replace out of fear of losing revenue if the municipality does not allow a replacement home.

S.B. 1248 adds Section 211.018 of the Local Government Code regulating the continuation of land use regarding manufactured home communities. These regulations restrict the conditions under which a municipality may require a change in nonconforming use of a manufactured home lot, allows manufactured home owners to install replacement manufactured homes in compliance with certain conditions, and allows municipalities to prohibit installation of manufactured homes on a site in a designated floodplain.

The bill also adds Section 214.906 of the Local Government Code prohibiting municipalities from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless the tract or parcel contains at least four spaces offered for lease for installing and occupying manufactured homes.

Magistrate Duties and Mental Health

H.B. 13

Subject: Matching Grant Program Supporting Community Mental Health Services

Effective: September 1, 2017

Interested parties have expressed a significant need for community-based mental health services across Texas. H.B. 13 encourages local stakeholders to create locally driven solutions to mental health challenges within their communities, adding Section 531.0999 to the Government Code to create a matching grant program to support community mental health program that provide services and treatment to individuals experiencing mental illness.

H.B. 13 provides for an executive commissioner to be appointed to determine grant recipients based on their submission of applications or proposals. Grant recipients must secure contributions to match awarded grants in certain, specified amounts of money or other consideration, based on county population. Communities in a county with a population of less than 250,000 must leverage funds equal to 50 percent of the grant amount. Communities in a county with a population of at least 250,000 must leverage funds equal to 100 percent of the grant amount. A community mental health program located in more than one county shall secure funds equal to the required percentage for the largest county in which it is located.

TMCEC: There were a number of bills this session focusing on mental health issues within the criminal justice system and the community as a whole. S.B. 1849, The Sandra Bland Act, creates a similar matching program in Chapter 539 of the Government Code for providing services related to homelessness, substance abuse, or mental illness. It remains to be seen if there will be challenges in reconciling each bills similar but varying provisions.

H.B. 1727

Subject: Issuance of Certain Search Warrants in Chambers County

Effective: September 1, 2017

H.B. 1727 amends Article 18.01(i) of the Code of Criminal Procedure to change one of the circumstances under which any magistrate in a county may issue a search warrant for contraband subject to forfeiture or a search warrant for certain property or items constituting evidence (such as a blood draw warrant.) Currently, any magistrate from a county not having a judge of a municipal court of record who is an attorney licensed by the state may issue such a warrant. H.B. 1727 allows any magistrate from a county not having a municipal court of record with a courtroom located in that county and a judge who is an attorney licensed by the state.

TMCEC: This following cities are in Chambers County: Anahuac, Baytown (mostly in Harris County), Beach City, Cove, Mont Belvieu (small part in Liberty County), and Old River Winfree (small part in Liberty County). This bill may have application in other counties.

H.B. 3165

Subject: Videoconferencing and Pretrial Procedures in Criminal Cases

Effective: September 1, 2017

H.B. 3165 amends Article 15.17 of the Code of Criminal Procedure by changing references to “electronic broadcast system” to “videoconference” and changing references to “recording” to record, which may

consist of written forms, electronic recordings, or other documentation as authorized by procedures adopted in the county under Subsection (a) of Article 26.04 of the Code of Criminal Procedure (Procedures for Appointing Counsel). Counsel for the defendant may obtain a copy of an electronic recording, if an electronic recording was created, on payment of a reasonable amount to cover costs of reproduction. Conforming changes are made to Article 27.18 (Plea or Waiver of Rights by Videoconference) of the Code of Criminal Procedure, replacing “Closed Circuit Video Teleconference” with “Videoconference” and combining two versions of Subsections (c) and (c-1) and allowing a record of a communication under Article 27.18 to be made by electronic recording as well as a court reporter.

H.B. 3165 amends Article 15.21 of the Code of Criminal Procedure (Prisoner Discharged if Not Timely Demanded). The amendment requires a magistrate in the county of arrest to release an arrested person on personal bond, if the county of the alleged offense does not demand the arrested person before the 11th day after the date the person is committed to jail. The releasing magistrate shall forward the personal bond to the sheriff of the county of the alleged offense or to the court that issued the warrant.

TMCEC: Put on your magistrate hat and read this bill. From the administration of pretrial personal bond office to what happens when counties do not come pick up their prisoners this bill is significant.

H.B. 3165 continues a trend over the last several legislative sessions to make the law more accurately reflect the technology and terminology used in today’s world. Perhaps the most significant clarification offered to municipal judges as magistrates in this bill, however, is the clarification that there must be a “record” of a magistration (as opposed to a “recording”) which can consist of a written record or an electronic recording. Part of this H.B. 3165 is reminiscent of S.B. 1517 passed in the 84th Legislature which similarly addressed persons arrested in a county other than the one where an alleged offense occurred. S.B. 1517, however, focused on the appointment of counsel. H.B. 3165 would appear to have broader application, as it applies to all defendants arrested on out of county charges that are not timely picked up; not just those who are eligible to receive appointed counsel.

It has been nearly a decade since the U.S. Supreme Court decision in *Rothgery v. Gillespie County* (holding: that Article 15.17 marks the initiation of adversary judicial proceedings that trigger attachment of the 6th Amendment right to counsel). Ryan Kellus Turner and Jessica Marsh, “Case Law and Attorney General Opinion Update” *The Recorder* (November 2008). This bill and the current environment and fervor for criminal justice reform give reason to once again consider the possible broader implication of *Rothgery*. See, Ryan Kellus Turner, “Making Sense of *Rothgery*: What the Most Recent Decision of the U.S. Supreme Court Regarding the Sixth Amendment Means to Magistrates in Texas” *The Recorder* (August 2008) at 5.

H.B. 3237

Subject: Return of Executed Search Warrants and Public Availability

Effective: May 26, 2017

Current law could allow the owner of property subject to an unexecuted search warrant to become aware of the impending search due to the public availability of the sworn affidavit, establishing probable cause for the warrant that is filed before the warrant is authorized and executed.

H.B. 3237 addresses this issue by changing the time at which such a sworn affidavit becomes public information. The amended of Subsection (b) of Article 18.01 of the Code of Criminal Procedure (Search Warrants) changes the time at which a sworn affidavit setting forth substantial facts establishing probable cause for a search warrant becomes public information from the time at which the affidavit is executed to the time at which the search warrant for which the affidavit was presented is executed.

Additionally, H.B. 3237 amends Article 18.10 of the Code of Criminal Procedure (How Return Made). The amendment requires the officer, not later than three whole days after executing a search warrant, to return the search warrant. The failure of an officer to make a timely return of an executed search warrant or to submit an inventory of the property taken into the officer's possession under the warrant does not, however, bar the admission of evidence.

TMCEC: A common theme in the 85th Legislature was the availability of public information. Other bills were passed during the session that sought to close "loopholes" that allowed the public to gain personal information on state judges (S.B. 42), find the home address of court personnel (S.B. 510), and uncover information on older convictions and dismissals following deferred disposition (S.B. 47). H.B. 3237 similarly seeks to limit access to a search warrant before it is executed by tweaking language referencing the affidavit and search warrant in the law.

S.B. 4

Subject: Enforcement of Immigration; Prohibition of "Sanctuary Cities"

Effective: September 1, 2017

TMCEC: S.B. 4 prohibits "sanctuary city" policies, which prohibit local law enforcement from inquiring about a person's immigration status and complying with detainer requests. These policies also often prohibit the sharing of information regarding a person's immigration status with the federal government.

S.B. 4 amends current law relating to the enforcement by campus police departments and certain local governmental entities of state and federal laws governing immigration and to related duties and liability of certain persons in the criminal justice system; provides a civil penalty; and creates a criminal offense.

Section by Section Analysis

Article 1: Policies of and Grant Programs for Local Entities and Campus Police Departments

S.B. 4 amends Chapter 752 of the Government Code by adding Subchapter C, titled Enforcement of State and Federal Immigration Laws by Local Entities and Campus Police Departments. Section 752.053 prohibits local entities (defined as the governing body, officers, or employees of a municipality, county, or special district or authority including peace officers and city attorneys) and campus police departments from adopting, enforcing, or endorsing a policy that prohibits or materially limits the enforcement of immigration laws; prohibiting or materially limiting the enforcement of immigration laws, as demonstrated by pattern or practice; or intentionally violating Article 2.251, Code of Criminal Procedure, which is added by this Act.

Additionally, Section 752.053 of the Government Code prohibits local entities and campus police departments from prohibiting or materially limiting a commissioned peace officer, booking clerk, magistrate, district attorney, criminal district attorney, or other prosecutor employed by the entity from inquiring into the immigration status under a lawful detention or arrest; sending, maintaining, or exchanging information related to immigration status; assisting or cooperating with a federal immigration officer; or permitting a federal immigration officer to enter and conduct immigration enforcement activities at a jail.

S.B. 4 adds Section 752.054 to the Government Code prohibiting discrimination by local entities, campus police departments, or persons employed or under the control of the entity or department while enforcing immigration laws except to the extent permitted by the U. S. Constitution or Texas Constitution.

Under the new Section 752.055 of the Government Code, any citizen residing in a local entity's jurisdiction or enrolled at and institute of higher education may file a complaint with the Texas Attorney General if the person alleges a violation of Section 752.053. If the Attorney General determines that the complaint is valid, the Attorney General may file a petition for a writ of mandamus to compel compliance with the new law. Appeals of a suit brought by the Attorney General are governed by the procedures for accelerated appeals under the Texas Rules of Appellate Procedure and the appellate court must render an order or judgment with the least possible delay.

S.B. 4 establishes a civil penalty under Section 752.056 of the Government Code for a local entity or campus police department found by a court of law to have intentionally violated Section 752.053. The civil penalty is not less than \$1,000 or more than \$1,500 for a first violation, and not less than \$25,000 or more than \$25,500 for each subsequent violation. Each day of a continuing violation constitutes a separate violation for the civil penalty. Sovereign immunity and governmental immunity is waived and abolished regarding liability for this new civil penalty.

S.B. 4 also adds Section 752.0565 of the Government Code calling for an elected or appointed officer of a political subdivision to be removed from office if the person violates Section 752.053.

In addition, new Section 752.057 of the Government Code authorizes law enforcement agencies to adopt written policies requiring the agency to perform community outreach activities concerning the scope of the law. This outreach is meant to educate the public that, with two exceptions, a peace officer is prohibited from inquiring into the immigration status of a victim or witness to an alleged criminal offense. The peace officer may inquire into immigration status if the officer determines that the inquiry is necessary to investigate the offense or to provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.

Finally, S.B. 4 adds Section 772.0073 establishing a grant program to provide financial assistance to local entities to offset costs related to enforcing immigration laws or complying with, honoring, or fulfilling immigration detainer requests.

Article 2: Duties of Law Enforcement Agencies and Judges

S.B. 4 adds Article 2.251 to the Code of Criminal Procedure requiring law enforcement agencies with custody of a person subject to a U. S. Immigration and Customs Enforcement (ICE) detainer request to comply with the request and inform the person that they are being held under the ICE detainer request, unless the person has provided proof of U. S. citizenship or lawful immigration status.

Note: While there are new duties for judges under the added Article 42.039 of the Code of Criminal Procedure requiring the judge to order at judgment a defendant subject to an ICE detainer request to finish the final portion of the defendant's sentence in federal custody, it is important to note that municipal judges will not be subject to the requirements as municipal judges do not have jurisdiction of cases with judgments that require a defendant to be confined in a secure correctional facility.

Article 3: Defense of Local Entities by Attorney General

S.B. 4 adds Section 402.0241 to the Government Code requiring the Attorney General to defend a local entity if the local entity requests the Attorney General's assistance in the defense and the Attorney General determines that the cause of action arises out of a claim involving the local entity's good-faith compliance

with a detainer request required by Article 2.251 of the Code of Criminal Procedure. If the Attorney General defends a local entity, the state is liable for the expenses, costs, judgment, or settlement of the claims arising out of the representation. The Attorney General may settle or compromise any and all claims, and the state is not liable for any expenses, costs, judgments, or settlements of any claims against a local entity not being represented by the Attorney General.

Note: Municipalities will be interested to know that, although the Attorney General will take on the litigation costs and defend a local entity, the Attorney General may also settle or compromise these claims. This may present a different relationship than cities are typically used to when dealing with outside counsel.

Article 4: Surety Bond

S.B. 4 amends Article 17.16 of the Code of Criminal Procedure prohibiting a surety from being relieved of the surety's undertaking if the accused is in federal custody to determine whether the accused is lawfully present in the United States.

Note: A surety may be relieved of the undertaking by delivering an affidavit stating that the accused is incarcerated by any state, any county of this state, or is in federal custody for any reason other than to determine whether the person is lawfully present in the United States. It seems the intent here is to cause sureties to think twice before providing a surety bond for defendants that they may know or suspect to be present in the United States unlawfully.

Article 5: Prohibited Conduct by Sheriff or Constable

S.B. 4 amends the Penal Code by adding Section 39.07, providing that a person who is a sheriff, chief of police, or constable or a person who otherwise has primary authority for administering a jail, commits Class A misdemeanor if the person has custody of a person subject to a detainer request issued by ICE and knowingly fails to comply with the detainer request. It is an exception if the person who was subject to a detainer request provided proof that the person is a citizen or has lawful immigration status in the United States.

Article 6: Inquiry by Peace Officer Regarding Immigration or Nationality of Crime Victim or Witness

S.B. 4 amends Article 2.13 of the Code of Criminal Procedure by adding Subsections (d) and (e). Article 2.13(d) authorizes a peace officer, to inquire as to the nationality or immigration status of a victim of or witness to the offense only if the officer determines that the inquiry is necessary to investigate the offense or provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement. Article 2.13(e) provides that Subsection (d) does not prevent a peace officer from conducting a separate investigation of any other alleged criminal offense or from inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.

Note: Generally, a person may only be questioned if they are under lawful detention. By definition, this excludes if the sole reason for detention is that a person is a victim or a witness. Article 2.13 narrows and clarifies the scope of this exclusion.

Article 7: Severability

If any application of any provision in S.B. 4 is found by a court to be invalid, all remaining applications of the provision are severed and not affected.

S.B. 292

Subject: Creation of a Grant Program to Reduce Recidivism, Arrest, and Incarceration of Individuals with Mental Illness

Effective: September 1, 2017

The 83rd Legislature passed S.B. 1155, which created the Harris County Mental Health Jail Diversion Pilot Program. Because of the successes of this program and similar diversion projects across the state, many entities have recommended that these types of programs be implemented statewide.

S.B. 292 amends Chapter 531 of the Government Code by adding Section 531.0993 to create a grant program for local community collaborative use in reducing recidivism, frequency of arrest, and incarceration of persons with mental illness, and reducing the total wait time for forensic commitment of persons with mental illness to a state hospital. To petition for the commission of a grant under the program, a community collaborative must include a county, a local mental health authority operating within the county, and each hospital district (if any) located in the county. Section 531.09935 is also added to the Government Code creates a similar grant program for the further the same goals in the most populous county in the state, Harris County.

Grant amounts under Section 531.0993 depend on the community collaborative providing funds from non-state sources at specified amounts based on population. Counties with a population of 250,000 or more must provide funds equal to or exceeding the amount of the grant awarded, while counties with less than 250,000 must provide funds equaling at least 50 percent of the awarded grant amount. A community collaborative must submit a petition each fiscal year to be reviewed before the grant is reissued, and the collaborative may seek the required non-state sourced funds through gifts, grants, or donations from any person. Under Section 531.09935, the grant amount to Harris County will be equal to the lesser of the amount appropriated for the continuation of the mental health jail diversion pilot program or the Harris County collaborative available matching funds.

Acceptable uses for the grant money and matching funds include: the continuation of a mental health jail diversion program; the establishment or expansion of a mental health jail diversion program; the establishment of alternatives to competency restoration in a state hospital; the provision of assertive community treatment or forensic assertive community treatment with an outreach component; the provision of intensive mental health services and substance abuse treatment; the provision of continuity of care services for an individual being released from a state hospital; the establishment of interdisciplinary rapid response teams to reduce law enforcement's involvement with mental health emergencies; and the provision of local community hospital, crisis, respite, or residential beds.

TMCEC: Grant programs like the one created by S.B. 292 are popular in the 85th Legislature. This may partly be due to increased awareness of potential mental health issues in the criminal justice system in recent years. There are also two other grant programs created or amended in Sections 531.0999 and 539.002 of the Government Code by H.B. 13 and S.B. 1849.

S.B. 344

Subject: Transportation of Person with Mental Illness Apprehended for Dangerous Behavior

Effective: June 9, 2017

Chapter 573 of the Health and Safety Code governs emergency detentions. Currently, when a peace officer takes a person into custody without a warrant under Section 573.001 of the Health and Safety Code because the officer believes the person has a mental illness and presents a danger to themselves or others, that officer must transport the person to a mental health facility. Permitting emergency services personnel to transport that person to such a facility could better serve public health by providing a more appropriate means of transport and could also enhance public safety by permitting law enforcement personnel to resume their duties.

S.B. 344 adds Section 573.005 of the Health and Safety Code, allowing the execution of a memorandum of understanding between a law enforcement agency and an emergency medical services provider regarding the transfer of a person detained under Section 573.001 to a mental health facility. The memorandum of understanding must address responsibility for the cost of transport. The amended Section 573.001 allows a peace officer who apprehends a person who has a mental illness and presents a danger to themselves or others to transfer the apprehended person to an emergency medical services provider (who is party to the memorandum) for transportation to an appropriate medical facility. As required under the amended Section 573.002, emergency medical services personnel making the transport shall immediately file with the facility the notification of detention completed by the peace officer who made the request. A facility must accept a person transported by either a peace officer or emergency medical services personnel, under the amended Section 573.021 of the Health and Safety Code.

S.B. 631

Subject: Venue for Disposition of Stolen Property Hearings

Effective: September 1, 2017

Chapter 47 of the Code of Criminal Procedure provides for how a person recovers stolen property. If there is no pending criminal case, a judge may hold a hearing to determine who has lawful right of possession. However, the hearing must be held in the county in which the property is being held. If a person in one county has property stolen from them, they might have to travel across the state to attend the hearing to recover their property, incurring a large personal cost to the victim.

S.B. 631 modifies Articles 47.01(a) and (d) and Article 47.02(b) of the Code of Criminal Procedure to allow the hearing to take place in: (1) the county where the property is being held; (2) the county where the property was believed to be stolen; (3) the municipality where the property is being held; and (4) the municipality where the property was believed to be stolen.

TMCEC: It is a longstanding criticism that Chapter 47 of the Code of Criminal Procedure suffers from a lack of specificity. Perhaps this will prove to be a good first step in providing much needed clarification. While all magistrates typically have coequal county-wide jurisdiction, under S.B. 631, municipal judges may only preside over stolen property hearings if the property is being held in the city or was alleged to have been stolen in the city. Notably, while the true owners may now be shielded from the costs of travelling to attend the hearing in another part of the state, ultimately they are responsible for any transportation necessary for the property to be delivered as ordered in the hearing.

S.B. 1326

Subject: Duties of Magistrate and Law Enforcement Related to Persons with Mental Illness

Effective: September 1, 2017

During the interim, the Texas Judicial Council identified issues affecting criminal defendants who are or may be persons with mental illnesses or intellectual disabilities. Specifically, current law requires sheriffs to notify magistrates if there is cause to believe a defendant in custody is mentally ill. Many times, however, there is no timely transmission of this information from a sheriff to a magistrate. Current law also authorizes magistrates to release a nonviolent defendant with a mental illness on a personal bond and require treatment as a condition of release. Local practices, however, reduce the availability of personal bonds and their use is not widespread.

S.B. 1326 implements Texas Judicial Council recommendations to address those issues. Specifically, it would require sheriffs to provide notice to the relevant magistrate regarding a defendant suspected of having mental illness no later than 12 hours upon receipt of credible information that the person has a mental illness or intellectual disability; increase flexibility regarding bond availability for mentally ill, non-violent defendants; provide local communities with the authority to offer competency restoration and maintenance in any safe and clinically appropriate setting, including outpatient residential, community inpatient, and jail settings that meet appropriate standards; and broaden judicial discretion to choose the best use of local competency restoration options.

These changes should ensure that criminal defendants with a mental illness are referred timely to adequate treatment options, but also help reduce backlogs in county and municipal jails and free up capacity in state hospitals for other persons who need treatment at a state mental health facility.

S.B. 1326 amends Early Identification of Defendant Suspected of Having Mental Illness or Mental Retardation (Article 16.22, Code of Criminal Procedure) to provide that no later than 12 hours after a sheriff or municipal jailer has custody of a defendant for an offense punishable as a Class B misdemeanor or higher category offense and receives credible information the defendant has a mental illness or an intellectual disability, the sheriff or municipal jailer must provide written or electronic notice to the magistrate, including the information on the defendant's behavior and any other applicable assessment on the defendant. Upon receipt of the information and a determination that probable cause exists to believe the defendant has a mental illness, the magistrate can order a qualified mental health or intellectual disability authority to collect information regarding the defendant's illness or disability. Current law does not contemplate municipal jails and the collected information must be returned no later than the 30th day after the order. S.B. 1326 changes this, by including municipal jails and jailers and specifying that information collected regarding a defendant held in custody must be returned within 96 hours, while 30 days are still permitted with regard to a defendant released from custody. Notably, the magistrate is required to submit to the Office of Court Administration (OCA) on a monthly basis the number of written assessments provided to the court under Subsection (a)(1)(B).

S.B. 1326 amends Duties of Arresting Officer and Magistrate (Article 15.17, Code of Criminal Procedure) by adding Subsection (a-1) which provides that a magistrate provided written or electronic notice of credible information that may establish reasonable cause to believe a person brought before them has a mental illness or is a person with an intellectual disability shall conduct proceedings described by Article 16.22 or 17.032 (see below).

S.B. 1326 amends Release on Personal Bond of Certain Mentally Ill Defendants (Article 17.032, Code of Criminal Procedure). Currently, a magistrate shall release a defendant (unless good cause is shown otherwise) if: the defendant is not charged with (or previously convicted of) a violent offense; the defendant is examined by an appropriate mental health or intellectual disability authority; the authority finds the defendant competent and recommends services or treatment; and the magistrate determines that services or treatment. S.B. 1326 adds a fifth requirement: the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's required appearance in court and the safety of the community and the victim of the alleged offense. Additionally, Article 17.032 is updated to specify that it is not trumped by a bond schedule or Article 17.03(b), related to authorizing only the court before whom the case is pending to release certain defendants on personal bond.

Section 72.032 is added to the Government Code, requiring the Administrative Director of OCA to make available to courts information concerning best practices for addressing the needs of persons with mental illness in the court system. Chapter 121 of the Government Code also requires OCA to collect information from specialty courts regarding the outcomes of persons with mental illness in those courts.

TMCEC: It is going to take a while to sort this one out. The great bulk of 35 different sections of S.B. 1326 deals with changes to Chapter 46B of the Code of Criminal Procedure, relating to competency and competency restoration. Article 46B.002 of the Code of Criminal Procedure specifies that Chapter 46B only applies to defendants charged with felonies or misdemeanors punishable by confinement, not squarely applicable to municipal courts. S.B. 1326 does, however make several important changes that municipal judges should be aware of in their role as magistrates. Along with the Sandra Bland Act (S.B. 1849), S.B. 1326 reflects a focus on improvement in the handling of defendants experiencing mental illness or intellectual disability. The Sandra Bland Act also makes similar changes to Chapters 16 and 17 of the Code of Criminal Procedure, with some important differences. It will be interesting to see if the bills can be harmonized, or if some aspects of S.B. 1326 will be trumped by S.B. 1849, which passed last in time.

S.B. 1576

Subject: Enhanced Penalties on Civilly Committed Sexually Violent Predators

Effective: September 1, 2017

Informed observers report that recently enacted legislation made changes to the Texas Civil Commitment Office (TCCO), formerly known as the Office of Violent Sex Offender Management, but that additional measures are needed to strengthen the laws regarding the civil commitment of sexually violent predators. S.B. 1576 seeks to provide these additional measures, which include, among other things, enhanced criminal penalties procedural support.

S.B. 1576 amends Article 17.03 of the Code of Criminal Procedure to state that a magistrate may not release on personal bond a person who, at the time of the commission of the charged offense, is civilly committed as a sexually violent predator.

Section 22.01 of the Penal Code (Assault) is amended by amending Subsection (b-1), (f), and adding Subsection (b-2) to state that it is a third-degree felony offense if an actor committed to a civil commitment facility assaults an officer or employee of the Texas Civil Commitment Office while they are lawfully discharging an official duty at a civil commitment facility or in retaliation for or because of an exercise of official power or performance of an official duty by an officer, employee or individual contracted to

work within the facility. Section 22.11 (Harassment by Persons in Certain Facilities; Harassment of Public Servant) is amended to add that it is an offense for a person committed to a civil commitment facility to cause any officer, employee or individual contracted to work within the facility to come in contact with blood, semen, or any other bodily fluid within the scope of the individual's employment or duties.

TMCEC: S.B. 1576 is a voluminous bill comprised of 48 sections, much of which is not related to municipal courts, including many changes to Chapter 841 of the Health and Safety Code related to the civil commitment of sexually violent predators. S.B. 1576 also reflects a common theme this session regarding the protection and restriction of personal information from those seeking to abuse public records or court processes for personal gain or criminal purposes. The bill amends Sections 30.010(a) and (b) of the Civil Practice and Remedies Code to restrict the personal information of Texas Civil Commitment Office employees from discovery by a person civilly committed as a sexually violent predator under Chapter 841 of the Health and Safety Code.

S.B. 1849

Subject: Interactions Between Law Enforcement and the Arrested or Confined; Sandra Bland Act
Effective: September 1, 2017, except Section 4.03 takes effect January 1, 2018

TMCEC: On Thursday July 10, 2015, Sandra Bland had just accepted a job offer from Prairie View A&M University when she was pulled over for a traffic offense and subsequently arrested after an altercation with the officer. At the jail, Sandy told a guard that she felt “very depressed,” had also felt depressed during the past year, and had tried to commit suicide in 2014 after losing her pregnancy. She was not hospitalized, seen by a mental health professional, or put on suicide watch. On Saturday, Sandy's bond was set, yet she was unable to find assistance for posting the \$515. She spent Sunday sobbing and saying repeatedly that she could not deal with being locked up. On Monday, she refused breakfast at 6:30 a.m. Later that day she used an emergency intercom twice to beg for permission to use the phone from the front desk, but it was refused. At 9:00 a.m. on Monday July 13, 2015, Sandra Bland was found hanging in her jail cell in Waller County, Texas.

Section by Section Analysis

The events leading up to Sandra Bland's jailing and tragic death sparked a statewide and national discussion regarding criminal justice reform. S.B. 1849 aims to improve Texas' criminal justice system to make it better for both law enforcement and the public and prevent future tragedies like Sandra Bland's.

S.B. 1849, known as the Sandra Bland Act, addresses a variety of criminal justice topics including bail reform, jail diversion, jail safety, officer training, racial profiling, data collection, officer discipline, and behavioral health. Additionally, in an effort to update the law to reflect modern understanding of mental health issues, the Act replaces the antiquated term “mental retardation” with “intellectual disability” where referenced.

Article 1: Short Title

S.B. 1849 shall be known as The Sandra Bland Act, in memory of Sandra Bland

Article 2: Identification, Diversion, and Services for Those with Mental Illness, Intellectual Disability, or Substance Abuse Issues

Under an amended Article 16.22 of the Code of Criminal Procedure, the sheriff, not later than 12 hours,

rather than 72 hours, after receiving credible information that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability must provide written or electronic notice of the information to the magistrate.

S.B. 1849 adds Article 16.23 to the Code of Criminal Procedure requiring each law enforcement agency to make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction, under appropriate circumstances. Specifically, efforts to divert should be made if there is an available and appropriate treatment center in the jurisdiction, diversion is reasonable, the person is accused of a nonviolent misdemeanor, and the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense. Notably, Article 16.23 does not apply to a person accused of an intoxication offense under Chapter 49 of the Code of Criminal Procedure. This would exclude Driving While Intoxicated, perhaps one of the more common offenses resulting in actual arrest encountered by law enforcement.

S.B. 1849 amends Section 539.002 of the Government Code related to grant programs available from the Department of State Health Services for the development of community collaboratives to provide services related to homelessness, substance abuse, and mental illness. Language is removed that limited the grants to a maximum of five, which were required to be made in the most populous municipalities in this state that are located in counties with a population of more than one million. Each entity awarded a grant must leverage additional funding in an amount that is at least equal to the amount of the grant awarded; provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons. Section 539.0051 is added to the Government Code requiring counties to develop and make public a plan related to establishing community collaboratives and raising private funds as envisioned under Section 539.002.

Note: There is a similar matching grant program in Chapter 531 of the Government Code as amended by H.B. 13 to support community mental health programs providing services and treatment to individuals experiencing mental illness.

Article 3: Bail, Pretrial Release, and County Jail Standards

S.B. 1849 amends Article 17.032 of the Code of Criminal Procedure, replacing references to "mental retardation" with references to "intellectual disability" or "intellectual and developmental disability."

Subsection 511.009(a)(23) is added to the Government Code requiring the Texas Commission on Jail Standards (TCJS) to adopt reasonable rules and procedures to ensure the safety of prisoners, including requiring county jails to give prisoners access to a mental health professional 24 hours a day (either through a health professional at the jail, a telemental health service, or transporting the prisoner to a health professional) and to install automated electronic sensors or cameras (if funding is available) to check cells confining at-risk individuals.

S.B. 1849 also adds Subsection 511.009(d) to the Government Code requiring TCJS to adopt rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. Requires that the rules and procedures require a qualified medical

professional to review, as soon as possible, any prescription medication a prisoner is taking when the prisoner is taken into custody.

S.B. 1849 adds Sections 5111.019, 511.020, and 511.021 to the Government Code establishing a prisoner safety fund to provide grants to be used for prisoner safety, requiring sheriffs to report serious incidents (including suicide, attempted suicide, death, etc.) to TCJS, on or before the fifth day of each month, and requiring TCJS to appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail to conduct an independent investigation of a death occurring in a county jail.

Note: TCJS must adopt rules and procedures and created forms required under S.B. 1849 no later than January 1, 2018. County jails must comply with new rules adopted by TCJS by September 1, 2020.

Article 4: Peace Officer and County Jailer Training

S.B. 1849 adds Section 511.00905 to the Government Code requiring the Texas Commission on Law Enforcement (TCOLE) to develop (by March 1, 2018) and TCJS to approve an examination for a person assigned to the jail administrator position overseeing a county jail. A jail administrator, other than a sheriff, must pass the examination not later than the 180th day after the date the person is assigned to that position. A person who fails the examination is to be immediately removed from the position and is prohibited from being reinstated until the person passes the examination, and a sheriff is required to perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this section.

To make both officers and the public safer, S.B. 1849 increases officer training in general de-escalation and mental health de-escalation tactics. The use of de-escalation tactics helps ensure that both law enforcement and the public are able to go home safe

S.B. 1849 makes changes to Chapter 1701 of the Occupations Code. The amended Section 1701.253 requires the Texas Commission on Law Enforcement (TCOLE) to require officers (beginning April 1, 2018), as a part of the minimum training requirements, to complete a 40-hour statewide education program (developed by March 1, 2018) on de-escalation and crisis intervention techniques to facilitate interaction with person with mental impairments. Officers must also complete training on de-escalation techniques for interacting with the public, including techniques for limiting the use of force resulting in bodily injury as a part of the minimum requirements for law enforcement schools; at least once every 48 months, as required under Section 1701.352(b); and as a requirement for intermediate or advanced proficiency certificates under Section 1701.402. The amended Section 1701.310(a) requires training for county jailers to include at least eight hours of mental health training.

Article 5: Motor Vehicle Stops, Racial Profiling, and Issuance of Citations

S.B. 1849 amends Article 2.132 of the Code of Criminal Procedure and requires each law enforcement agency's written policy on racial profiling to provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer, rather than provide public education relating to the agency's complaint process. Although, S.B. 1849 specifically adds the language "ticket, citation, or warning" to Article 2.132, it is unclear what the legal difference would be between a ticket and citation. Generally, the Code refers to "citation" elsewhere when referencing what the public thinks of as a ticket. Additionally, the bill adds "compliment" to what

current law describes only as the “complaint process.” To be clear, the complaint is not to be confused with the complaint used as a charging instrument. Confusion over such terminology, specifically the word “complaint” has a long history in Texas. See, Ryan Kellus Turner, “Complaints, Complaints, Complaints: Don’t Let the Language of the Law Confuse You” *The Recorder* (July 2004) at 5.

The agency’s written policy must also the require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including whether the officer used physical force that resulted in bodily injury, the location of the stop, and the reason for the stop. This data must be reviewed by the agency to identify any improvements that the agency could make regarding motor vehicle stops. All agencies must also examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras, their written policy must include standards for reviewing video and audio documentation.

Article 2.133 of the Code of Criminal Procedure, as amended, requires peace officers who stop a motor vehicle for an alleged violation of a law or ordinance to report to their law enforcement agency information relating to the stop, including whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop, and whether the officer used physical force that resulted in bodily injury. Article 2.133 also provides that the chief administrator of a law enforcement agency is responsible for auditing reports the reports submitted by the officers to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

S.B. 1849 amends Article 2.134(c) of the Code of Criminal Procedure to require that a report be submitted by the chief administrator of the law enforcement agency to TCOLE include certain information, including a comparative analysis of the information compiled under Article 2.133 to evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether evidence was discovered in the course of those searches.

DPS is required under the amended Article 2.137 of the Code of Criminal Procedure to adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras. DPS must collaborate with an institution of higher learning to identify which law enforcement agencies need funds or equipment. The governing body of a county or municipality must certify to DPS that the law enforcement needs funds or equipment, and upon receipt of the funds or equipment, must certify that the video and audio equipment and body worn cameras are being used.

S.B. 1849 increases the civil penalty law enforcement agencies are liable for if the chief administrator of the agency intentionally fails to submit incident-based data from \$1,000 to an amount not to exceed \$5,000 for each violation.

Articles 2.132 and 2.134 of the Code of Criminal Procedure as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018. TCOLE, not later than September 1, 2018, must evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article.

Procedural Law

H.B. 351/S.B. 1913

Subject: The Administrative, Civil, and Criminal Consequences of Fines, Fees, and Costs

Effective: September 1, 2017

TMCEC: H.B. 351 and S.B. 1913 are, for the most part, similar pieces of legislation containing some subtle, yet notable differences requiring courts to attempt to harmonize their provisions.

During the course of the 85th Legislature, both bills evolved. H.B. 351, as introduced, was a one-page bill with a singular objective. By the time it was signed by the Governor, it was immensely broader in scope than its counterpart, S.B. 1913, which was nearly entirely rewritten during the course of the Session. Despite their similarities, H.B. 351 enjoyed broad support and progressed throughout the legislative process without opposition, while S.B. 1913, at times, struggled.

In the final days of Session, after H.B. 351 had passed the House and Senate and was on its way to the Governor, substantial efforts were made by interested parties to make S.B. 1913 a “mirror version” of H.B. 351. With a few exceptions, noted below, this effort was successful. By the time it arrived on the Governor’s desk, it, too, enjoyed broad support (including support from earlier opponents).

Although one bill took more of circuitous path to becoming law, both bills strike a balance between increasing procedural protections for low income and indigent criminal defendants and giving judges more leeway in delineating between fines and state mandated court costs and in the manner in which each is respectively discharged. For the most part, this balance is achieved without compromising the ability of criminal courts, after affording due process, to enforce their lawful judgments against all defendants.

These are remarkable pieces of legislation. Each is an implicit acknowledgment that the legislative and executive branches of government in Texas have created a system of laws that arguably trap some defendants in what advocates call a cycle of debt, license suspensions, arrest warrants, and jail time when they cannot pay. From the perspective of the judiciary, what is equally remarkable is that these bills provide judges an unprecedented amount of leeway to deal with state proscribed mandatory court costs, which can quickly aggregate and are potentially higher than the fines imposed by judges as punishment.

Although media coverage of these bills seemed to exclusively focus on Class C misdemeanors and municipal and justice courts, both bills make similar changes to fines and costs assessed in county and district court proceedings involving Class A and B misdemeanors and felonies.

Section by Section Analysis:

Note: References to section numbers below first refer to H.B. 351; the section number after the “/” refers to S.B. 1913 (i.e., Section # H.B. 351/Section # S.B. 1913). Unless stated otherwise, all references below are to the Code of Criminal Procedure.

Section 23 and Section 25 of H.B. 351 amending Article 102.0071 (Justice Court Dishonored Check or Similar Sight Order) and Section 32.21 of the Penal Code (Forgery) are not part of this summary (See the summary for H.B. 351). Neither is Section 30 creating a commission to study certain criminal offenses. (See the summary for H.B. 351.)

Sections 1 and 24/Sections 1 and 22: Notice of Alternatives to Full Payment

Article 14.06(b) is amended to require citations to contain information regarding the alternatives to full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount.

A similar amendment, regarding notice of alternatives to full payment is made to Article 27.14(b) (Plea of Guilty or Nolo Contendere in Misdemeanor) in instances where the defendant in person or by mail enters a plea of guilty or no contest. Under Article 27.14(b), a court is required to notify the defendant of the fine and costs assessed, and if requested by the defendant, the amount of an appeal bond the court will approve. Notably, under current law a court is required to notify the defendant in person or by certified mail, return receipt requested. As amended, the notice may be made in person by “regular mail.” The requirement of certified mail, return receipt requested is repealed. (See, Section 3 of both bills.)

Both bills similarly require such information to be provided to a defendant by third party vendors as part of its services under a collections contract pursuant to Article 103.0031(j) (See, Section 22/Section 24).

At first glance, notice of alternatives to “full payment” may seem amorphous or unimportant. Take a closer look. As you carefully read the bills, and the sections noted below, consider collectively their important implications, not just for low-income and indigent defendants, but also for municipal and justice courts that have been saddled with escalating state-mandated courts costs and few legislatively proscribed options. (See, “Distinguishing ‘Fines’ from ‘Court Costs,’” *The Recorder* (October 2016) at 13.) Both bills contain multiple amendments stating that under the amended law a criminal trial court can provide alternative means or waiver to *either* a fine *or* state proscribed court costs and fees. See the discussions below: Ability to Pay Inquiry in Open Court; Commitment; Waiver in Full or Part (fines *or* costs may be waived in full *or* part), and Community Service Expanded. These changes are very important and likely, for the most part, to be welcomed in certain situations by criminal trial court judges.

Section 2/Section 2: Personal Bond Fees

Article 17.42, Section 4(a) is amended to prohibit a court that requires a defendant to give a personal bond under Article 45.016 (Bail) from assessing a personal bond fee.

Section 9/Section 8: Warrant of Arrest for Failure to Appear/”Safe Harbor” from Arrest

Article 45.014(e) (Warrant of Arrest) is amended to prohibit the issuance of an arrest warrant for the defendant’s failure to appear at the initial court setting, including failure to appear as required by a citation issued under Article 14.06(b) unless additional notice is provided by telephone or regular mail: (1) a date and time when the defendant must appear (S.B. 1913 states it must be within a 30-day period of the notice); (2) the name and address of the court; (3) information regarding alternatives to full payment (See discussion above.); and (4) the consequences of the defendant’s failure to appear.

The amendment to Article 45.014(e) is ostensibly broad enough to include other nonappearance offenses under state law involving a citation (e.g., Violate Promise to Appear). However, the amendment does not address the issuance of a warrant for the underlying offense for which the defendant is failing to appear. The practice of providing notice prior to the issuance of an arrest warrant has long been considered a “best practice” which is widely utilized by many, if not most, courts in the state. This amendment codifies the practice.

As amended Article 45.014(f) authorizes a defendant who receives notice under Subsection (e) to *request*

an alternative date or time to appear before the justice or judge if the defendant is unable to appear on the date and time included in the notice. The amendment does not, however, infringe on a court's discretion to grant or deny such a request. Reminder: Since 2015, in regard to the notice required by Subsection (e), Texas law has allowed courts to utilize e-mail in lieu of regular mail. (See, Sections 80.001-.005, Government Code.)

Article 45.014(g) is amended in H.B. 351 to require a justice or judge to recall an arrest warrant for the defendant's failure to appear if, before the arrest warrant is executed, the defendant voluntarily appears to resolve the arrest warrant and the arrest warrant is resolved in any manner authorized by that code. S.B. 1913 requires that the warrant be recalled if the defendant voluntarily appears and makes a good faith effort to resolve the arrest warrant before the warrant is executed.

Section 10/Section 9: Personal Bond; Bail Bond

Article 45.016, as amended, authorizes the justice or judge to require the defendant to give a personal bond, rather than bail, to secure the defendant's appearance in accordance with other provisions governing personal bond and bail bonds elsewhere in the Code of Criminal Procedure.

Under the newly created Article 45.016(b), a justice or judge is prohibited from requiring a defendant to give a bail bond unless the defendant fails to appear and "the justice or judge determines that the defendant has sufficient resources or income to give a bail bond and that a bail bond is necessary to secure the defendant's appearance in accordance with that code.

Under Article 45.016(c), if a defendant is required to give a bail bond under Subsection (b) and remains in custody, without giving the bond, for more than 48 hours after the issuance of the applicable order, the judge shall reconsider the requirement for the defendant to give the bond. (S.B. 1913 states that the court should presume that the defendant does not have sufficient resources or income to give the bond.)

Article 45.016(d) authorizes the defendant, if the defendant refuses to give a personal bond, or except as provided by Subsection (c), refuses or otherwise fails to give a bail bond, to be held in custody.

Note: In the wake of a hard fought battle to reform bail, an effort which failed this Session, it is hard to know exactly what to make of these amendments. Municipal and justice courts, courts governed by Chapter 45 of the Code of Criminal Procedure, like their county and district court counterparts, have to have the ability to compel recalcitrant defendants who refuse to appear in court. At the same time, however, it deserves emphasis, the current debate surrounding the alleged abuse and misuse of bail has to do with pretrial detention in county and district courts, most prominently in Harris County, *not* municipal and justice courts. In the absence of any research about post-charging use of bail in municipal and justice courts in Texas, courts are left with only anecdotal information and the opportunity to reflect on their own local bail practices.

The amendments to Article 45.016 are no model of clarity and may prove to be a source of more questions than a solution to a possible problem. Bail is comparatively rare in municipal and justice courts. It is even rarer that a person is detained in jail solely because of inability to make bail on a Class C misdemeanor. Prior to this amendment, most municipal judges and justices of the peace, likely gave little thought to Article 45.016.

Despite the amendments to Article 45.016, important distinctions are clear. First, Article 45.016 is a regulation on *post-charging* use of bail by *judges* (not *pre-charging* use of bail by *magistrates*). Second,

Article 45.016 is not the only law governing the use of bail in municipal and justice courts. The amendments, by their own terms, have to be read in accordance with other provisions in the Code of Criminal Procedure including the rules for setting bail and the use of personal bonds (Chapter 17) and, by extension, pertinent case law.

Section 11/Section 10: Ability to Pay Inquiries in Open Court

Article 45.041 (Judgment) is amended by adding Subsection (a-1) and amending Subsection (b). Subsection (a-1) requires judges, during or immediately after imposing a sentence in a case in which the defendant entered a plea in open court to inquire whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs. If the judge determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, the judge is to specify if the fine and costs shall be paid (1) at a later point in time or in intervals, (2) discharged by community services, (3) waived in full or part, or (4) satisfied in a combination of methods (1)-(3). Subsection (b) states that judgments otherwise entered per Article 45.041 for a fine or costs may be waived either partially or entirely per Article 45.0491. (See, below Section 17/Section 16.) (See also, the above analysis of Sections 1 and 24/Sections 1 and 22: Notice of Alternatives to Full Payment).

Note: Similar amendments are made in both bills to Article 42.15, which governs county and district courts. (See, Section 4 in both bills). Throughout Academic Year 2017, at regional conferences TMCEC discussed how current law leaves a gap in terms of a court's consideration of a defendant's ability to pay fines and costs. This amendment, in conjunction with the amendment to Article 45.045 (Capias Pro Fine) requiring a show cause hearing prior to the issuance of a capias pro fine by amendments (See, Section 13/ Section 12) and the commitment hearing by the issuing court, which is required under Article 45.045, should "bridge the gap" discussed in AY 17.

It is worth emphasizing that this amendment does not apply to pleas entered by mail, over the internet, or pleas conveyed to judges by clerks. It neither prohibits nor requires the court to consider the defendant's ability to pay a fine before setting the fine. A judge's discretion to set the fine is undiminished. Lastly, it does not require or authorize a court to compel a defendant to make financial disclosures. Defendants are not presumed indigent. The preceding were concerns with earlier versions of proposed amendments in S.B. 1913 to Article 45.041. None became law.

Consistent with longstanding law, the burden of establishing the inability to pay fines or costs post-judgment remains on the defendant. Requiring an inquiry regarding a defendant's ability to pay all or part of the fines and costs during or immediately after the imposition of sentence is similarly consistent with longstanding law and already a common practice in many courts.

Arguably, this is a missing link in Texas criminal procedure. Making an inquiry into a defendant's ability to pay has the potential to encourage judges to make full use of fine ranges, consider the full range of ways judgments can be discharged, increase the number of judgments satisfied, and decrease the time and resources spent on enforcing judgments.

Section 12/Section 11: Appeal Bonds

Non-substantive changes are made to Article 45.0425(a) (Appeal Bond), including references to a bail bond being replaced with references to an appeal bond.

Section 13/Section 12: Show Cause Hearings

Article 45.045 (Capias Pro Fine) is amended by adding Subsections (a-2) and (a-3). Subsection (a-2) provides that before a court may issue a capias pro fine for the defendant's failure to satisfy the judgment, (1) the court is required to provide by regular mail to the defendant certain notice and hold a hearing on the defendant's failure to satisfy the judgment according to its terms; and (2) either the defendant fails to appear at the hearing, or based on evidence presented at the hearing, the court determines that the capias pro fine should be issued. Subsection (a-3) states that a capias pro fine shall be recalled if, before the capias pro fine is executed, the defendant voluntarily appears to resolve the amount owed and the amount owed is resolved in any manner authorized by Chapter 45 (Justice and Municipal Courts).

Note: A show cause hearing is a chance to justify, explain, or prove something to a court. Conducting such a hearing before issuance of a capias pro fine is an additional safeguard that TMCEC has long touted because of its potential to prevent indigent defendants from being arrested over matters of money—matters that are beyond their control. Show cause hearings also have the potential to help courts, law enforcement, and jails save time and money. This amendment to Article 45.045 is another example of codifying a readily accepted “best practice.” Show cause hearings are also arguably an essential part of complying with *Bearden v. Georgia*. See, “In the Shadow of *Bearden*, Guidance from Case Law, and the Texas Code of Criminal Procedure, the Case for ‘Show Cause’ Hearings Prior to Issuing a Capias Pro Fine,” *The Recorder* (October 2016) at 21. Such hearings potentially allow consideration of a defendant's ability to pay and allow judges an opportunity to consider the circumstances surrounding failure to discharge the judgment through alternative means. This, of course, assumes the defendant appears (which is why the amendment contains a safe harbor provision). To be clear, however, when defendants do not appear, this amendment does not alleviate a court from conducting a commitment hearing per Article 45.046. In Texas, the commitment hearing required by the Code of Criminal Procedure is the *primary Bearden* safeguard. Show cause hearings before the issuance of a capias pro fine are a preliminary safeguard (not a substitute).

Section 14/Section 13: Commitment

The Senate Research Center and the House Research Organization have stated that the amendment of Article 45.046(a) is a non-substantive change. Admittedly, the only thing the amendment does is replace the word “and” with the word “or.” However, construed with the other amendments (see, above, Sections 1 and 24/Sections 1 and 22) TMCEC characterizes the change as conforming and substantive.

Section 15/Section 14: Capias Pro Fine Jail Credit Increase

Subsection (a) of Article 45.048 (Discharged from Jail) changes references to not less than \$50 for each period of time served to not less than \$100 for each period served. Similar changes are made in Article 43.09, which governs the fines and court costs in county and district courts. (See, Section 7 in both bills).

Note: Contrary to media reports, commitment to jail for nonpayment of fines and costs was not prohibited by the 85th Regular Legislature. Jail credits for nonpayment of fines and costs were, however, increased in all Texas criminal trial courts.

Section 16/Section 15: Expansion of Community Service

Article 45.049 (Community Service in Satisfaction of Fine or Costs) is amended as follows:

Subsection (b) requires a defendant to “perform,” rather than “participate,” in community service. A

court's order must now specify: (1) the number of hours of community service the defendant is required to perform; and (2) the date by which the defendant is required to submit to the court documentation verifying the defendant's completion of the community service (rather than the number of hours the defendant is required to work).

Subsection (c) expands the way a defendant may be ordered to perform community service. As amended, community service includes attending (1) a work and job skills training program; (2) a preparatory class for the high school equivalency examination administered under Section 7.111, Education Code; (3) an alcohol or drug abuse program; (4) a rehabilitation program; (5) a counseling program, including a self-improvement program; (6) a mentoring program; or (7) any similar activity.

Under current law, community service can only be performed for a governmental or nonprofit organization. As amended community service may also be performed for "another organization" or an "educational institution" that provides services to the general public that enhances social welfare and the general well-being of the community. Practically, this amendment means the only limitation on whether an entity is qualified to be a community service provider is the discretion of a judge and whether the judge believes the entity provides services to the general public that enhances social welfare and the general well-being of the community.

Note: Does expanding the list of community service providers beyond governmental or nonprofit entities pose potential ethical concerns for judges? Yes. Canon 2B prohibits judges from using the judicial office to advance the private interests of third parties. Once again, it appears that a law has been passed that may put judges at odds with the State Commission on Judicial Conduct. (See, Benjamin Gibbs, "Judicial Donation Trust Funds: A Statutory Violation of the Canons of Judicial Conduct?," *The Recorder* (January 2016). Judges be advised, "the Texas Legislature is under no obligation to pass laws that comply with the Code of Judicial Conduct. By the same token, the State Commission on Judicial Conduct (SCJC), in a public statement, has made it clear that just because the act of a judge is legal does not necessarily mean that it is ethical or compliant with the Code of Judicial Conduct." *Id.* at 14. Is the potential for commercialization of community service intimated in Subsection (c-1)?

Subsection (c-1) expands the way a community service provider may supervise the performance of community service. It allows a governmental entity, nonprofit organization, or another entity that accepts a defendant to perform community service to agree to supervise, "either on-site or remotely," the defendant in the performance of the defendant's community service, and report on the defendant's community service. A similar reference is made in the amendment to Subsection (g), which allows defendants charged with a traffic offense or Minor in Possession of Alcohol (Section 106.05, Alcoholic Beverage Code) who are ordered to perform community service as part of a deferred disposition per Article 45.051(b)(10) to elect to do community service either in the county where the court is located or where the defendant resides.

Subsection (d) prohibits a defendant from being ordered to perform more than 16 hours per week of community service unless the judge determines that ordering additional hours does not impose an "undue hardship" on the defendant or the defendant's dependents.

Subsection (e), similar to the previously described increase in jail credit, increases the rate per eight hours of community service from "not less than \$50" to "not less than \$100."

Subsection (f) adds an entity that accepts a defendant to perform community service to the laundry list of governmental entities, its employees, and public officials who are not liable for damages arising from an act or failure to act in connection with community service. Read in conjunction with the amendment

of Subsection (c) this is a substantial expansion of the statutory immunity beyond its traditional scope of governmental actors and entities.

Section 17/Section 16: Expanded Wavier of Fines or Costs

As amended, Article 45.0491 has a new heading: Waiver of Payment of Fines and Costs for Certain Defendants and for Children. The word “Indigent” is repealed from the heading, although, notably, the term remains in the statute and remains undefined. (See, “Defining Indigence,” *The Recorder* (October 2016) at 17.)

Subsection (a), as amended, states a court may waive payment of “all or part” of a fine or costs imposed on a defendant. The current requirement that a defendant “defaults in payment” is repealed. All or part of either a fine or costs may be waived if a court determines that (1) the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs, or was, at the time the offense was committed, a child as defined by Article 45.058(h); *and* (2) discharging the fine or costs, rather than the fine and costs, under Article 45.049 (Community Service) or as otherwise authorized by this chapter would impose an undue hardship on the defendant.

Subsection (b), as amended by S.B. 1913, provides that a defendant is presumed to be indigent or to not have sufficient resources or income to pay all or part of the fine or costs if the defendant: (1) is in the conservatorship of the Department of Family and Protective Services (DFPS), or was in the conservatorship of DFPS at the time of the offense; or (2) is designated as a homeless child or youth or an unaccompanied youth, as those terms are defined by 42 U.S.C. Section 11434a, or was so designated at the time of the offense.

Sections 18-20/Sections 17-19: Community Service for Juveniles

These amendments make conforming changes to Article 45.0492, as added by H.B. 350 (2011) and Article 45.0492 as added by H.B. 1964 (2011). Regrettably, despite these amendments, there are still two versions of Article 45.0292. The changes to both versions of Article 45.0492, which are now inconveniently both titled, *Community Service in Satisfaction of Fine or Costs For Certain Juvenile Defendants*, mirror that described in Section 16/Section 15: The Expansion of Community Service.

Sections 21-22/Sections 20-21: Termination of Bond - Deferred Disposition/DSC and MOC

Subsection (a) of Article 45.051 (Suspension of Sentence and Deferral of Final Disposition) is amended, stating that an order of deferral terminates any liability under a bond (rather than a “bail bond or an appearance bond.”) The same changes in terminology are made in Subsection (t) of Article 45.0511 (Driving Safety Course or Motorcycle Operator Course Dismissal Procedures).

Sections 26-27/Sections 23-24: County Scofflaw Program

Under current law, a county assessor-collector or the Department of Motor Vehicles (DMV) may refuse to register a motor vehicle if either receives notice that the owner of the vehicle either (1) owes a fine, fee, or tax that is overdue or (2) fails to appear in connection with a citation or formal charging instrument (e.g., a complaint) in a court with criminal jurisdiction. This type of “passive enforcement,” commonly referred to as the Scofflaw Program, was created in 1997 as a means of collecting monies owed to state and local governments that does not entail arrest or jail. It requires an interlocal agreement between a local government and the DMV.

Municipal and county governments may, but are not required to, contract with the DMV and use the Scofflaw Program. The use of the Scofflaw Program by counties, and related contracts and fees, is governed by Section 502.010 of the Transportation Code (County Scofflaw). The use of the Scofflaw Program by municipalities, and related contracts and fees, is governed by Section 702.003 of the Transportation Code.

There are no changes to the law governing the use of the Scofflaw Program by municipalities. Section 502.010 of the Transportation Code, which governs the use by counties, is amended as follows:

Subsection (b-1) provides that after the second anniversary of the date the information is placed into the Scofflaw Program, neither a county assessor-collector nor DMV may deny the owner of a motor vehicle who owes a county a fine, a fee, or a tax the ability to register the motor vehicle. It similarly prohibits subsequent information about other fines or fees that are imposed for a criminal offense and that become past due before the second anniversary of the date the initial information was provided from being used either before or after the second anniversary of that date.

Subsection (c) includes waiver of fines and costs to the circumstances where a county is obligated to notify DMV to lift the hold on the ability of the owner to register the motor vehicle.

Subsection (i) authorizes a municipal judge or justice of the peace who has jurisdiction over the underlying offense to waive an additional fee authorized under Subsection (f) if the judge or justice makes a finding that the defendant is economically unable to pay the fee or that good cause exists for the waiver. (Note: This amendment is perplexing because municipal judges will not have jurisdiction over an underlying offense under a county scofflaw contract and because county and district judges are excluded from the list of judges who can waive related fees.)

Under Subsection (j), a county who is notified that the court having jurisdiction over the underlying offense has waived the past due fine or fee due to the defendant's indigency may not impose an additional fee on the defendant under Subsection (f).

Sections 28-29/Sections 25-26: DPS OmniBase FTA Program

Under current law, the Department of Public Safety (DPS) may refuse to renew a person's driver's license if (1) the person fails to appear in court as required by law for the prosecution of an offense or (2) fails to pay or satisfy a judgment ordering the payment of a fine and court costs in the manner ordered by the court. Like the Scofflaw Program, the Failure to Appear (FTA) Program is a type of "passive enforcement." It was created in 1995 as a collection and enforcement tool. It requires an interlocal agreement between a local government and DPS. Municipal and county governments may, but are not required to, contract with DPS (which, in turn, contracts with OmniBase Services of Texas for vendor services and automation of the FTA Program). The FTA Program is governed by Chapter 706 of the Transportation Code (Denial of Renewal of License for Failure to Appear).

Section 706.005 of Transportation Code (Clearance Notice to Department) is amended to provide that clearance notice is only required in cases involving dismissal when the dismissal is with prejudice by motion of the appropriate prosecuting attorney for lack of evidence. A corresponding amendment pertaining to administrative fees is made to Section 706.006 of the Transportation Code (See, below).

Subsection (a) of Section 706.006 of the Transportation Code is amended as follows: A person who fails to appear for a complaint or citation, except where a court having jurisdiction over the underlying offense makes a finding that the person is indigent, is required to pay an administrative fee of \$30 for each complaint or citation reported to DPS unless: (1) the person is acquitted of the charges for which the person failed to

appear; (2) the charges on which the person failed to appear were dismissed with prejudice by motion of the appropriate prosecuting attorney for lack of evidence; (3) the failure to appear report was sent to DPS in error; or (4) the case regarding the complaint or citation is closed and the failure to appear report has been destroyed in accordance with the applicable political subdivision's records retention policy.

Subsection (d) of Section 706.006 of the Transportation Code (Payment of Administrative Fee) is amended to prohibit a person, if found indigent by a criminal trial court having jurisdiction, from being required to pay an administrative fee before being allowed to renew their driver's license under the FTA Program. For purposes of the subsection, a person is presumed to be indigent if the person: (1) is required to attend school full time (Section 25.085, Education Code); (2) is a member of a household with a total annual income that is below 125 percent of the applicable income level established by the federal poverty guidelines; or (3) receives assistance from: the financial assistance program (Chapter 31, Human Resources Code), the medical assistance program (Chapter 32, Human Resources Code), the supplemental nutrition assistance program (Chapter 33, Human Resources Code), the federal special supplemental nutrition program for women, infants, and children (42 U.S.C. Section 1786), or the child health plan program (Chapter 62, Health and Safety Code).

Note: Injecting the distinction of “dismissal with prejudice by motion of the appropriate prosecuting attorney for lack of evidence” convolutes matters pertaining to clearance notices and the circumstances which a person does not have to pay an administrative fee. It may also increase the number of defendants, other than those who are found to be indigent, who are required to pay an administrative fee for either failing to appear or failing to pay fines and costs and who have had their case submitted to the DPS OmniBase FTA Program.

Article 32.02 (Dismissal by State's Attorney) does not require a prosecutor to specify whether a case is dismissed with prejudice. Ostensibly, this is because under Texas law, whether a case is dismissed with prejudice is determined by a trial or appellate court, not by a prosecuting attorney. Article 32.02 does, however, require a prosecutor to set out reasons for a dismissal. The State's Motion to Dismiss in the *TMCEC Forms Book* has checkboxes for 10 different grounds for dismissal. In terms of sufficiency of the evidence, many of these grounds overlap. Under the amended law, the absence of a denotation regarding dismissal with prejudice may result in an administrative fee being assessed in instances where under current law no fee is assessed.

Sections 31-38/Sections 27-33: Repealers, Applicability, and Effective Date

These sections contain repealers and provisions pertaining to applicability.

H.B. 355

Subject: Prohibiting Sex Offenders from Residing on College Campuses

Effective: September 1, 2017

With the issue of sexual assault and rape being at the forefront of college campus safety discussions, it seems to be a statutory oversight that sex offenders on the Department of Public Safety Sex Offender Registry are allowed to live in an on-campus dormitory or on-campus housing facility.

H.B. 355 adds Article 62.064 of the Code of Criminal Procedure, prohibiting a person subject to registration as a sex offender from residing on the campus of public or private institutions of higher learning unless (1) the person is assigned a numeric risk level of one using the sex offender screening tool outlined in

Article 62.007 of the Code of Criminal Procedure, and (2) the institution approves of the person residing on campus. The bill also amends Article 62.058 of the Code of Criminal Procedure requiring local law enforcement to include a statement describing the prohibition under added Article 62.064 to a person being provided a registration form for verification under the Sex Offender Registration Program.

H.B. 681

Subject: Restricting Information that Relates to a Person Convicted or Granted a Dismissal after Deferred Disposition for a Fine-Only Misdemeanor
Effective: September 1, 2017

Public availability of certain fine-only misdemeanor records may carry a stigma that can limit housing and other opportunities. Additionally, maintaining court records and related documents in perpetuity may have a financial burden for Texas counties and cities. H.B. 681 creates Section 45.0218 of the Code of Criminal Procedure, making records and information following deferred disposition or final conviction confidential after five years.

TMCEC: H.B. 681 is very similar in intent to another bill passed this session, S.B. 47. Both bills seek to address records and other information available to the public regarding deferred disposition or convictions for fine-only misdemeanors. Part of this arises from privacy groups advocating to limit public access to certain records. There has been a realization that what some call “low level” or “minor offenses” actually carry important legal and societal consequences.

S.B. 47 mandates a study of how these records are held in Texas counties, but H.B. 681 goes a step further, essentially sealing records and information on deferred disposition or convictions after five years. At first glance, this is redundant, considering state records retention schedules. Section 441.158 of the Government Code provides that the Texas State Library and Archives create records retention schedules for local government and criminal records. These schedules currently provide that criminal case records only be retained for five years from the date of disposition and two years for dismissals. Consequently, deferred disposition and conviction records may be confidential after five years under H.B. 681, but those records likely will have already been destroyed.

Under H.B. 681, however, all records, files, and information stored by *electronic means or otherwise* are confidential and may not be disclosed to the public. Case file records may have been destroyed in accordance with the records retention schedules, but this may not include information stored electronically in case management software, online, or by other administrative means. In addition to entities such as the Department of Public Safety, defense counsel, and judges, H.B. 681 permits inspection by insurance companies if the offense is a traffic offense. This could conceivably allow these companies to inspect electronic records related to traffic offenses, including after deferred disposition, even after the case file itself has long since been destroyed.

H.B. 1264

Subject: Agreements Between Municipalities for Concurrent Jurisdiction
Effective: September 1, 2017

The City of Rowlett has assumed responsibility for first responder services such as police, fire, and ambulance services for a segment of the I-30 corridor running over Lake Ray Hubbard which is owned

by the City of Dallas. Therefore, Rowlett police officers must file citations in Dallas municipal courts for Class C misdemeanor traffic offenses which occur on that stretch of highway.

H.B. 1264 addresses this situation by amending Articles 4.14 and 13.045 of the Code of Criminal Procedure and Section 29.003 of the Government Code to allow certain municipalities to enter into an agreement providing concurrent jurisdiction for municipal courts for all criminal cases arising under state law and offenses punishable by fine only if the offense is committed within 2.25 miles of the boundary on a segment of highway in the state highway system that traverses a major water supply reservoir.

H.B. 1266

Subject: Continuance for Insufficient Notice of Trial

Effective: September 1, 2017

It is problematic when a trial court sets certain pre-trial motions without providing notice to either the state or the defense as this leaves little time for witnesses to be contacted and for attorneys to prepare before being called into a hearing. H.B. 1266 remedies this problem by requiring notice to the parties in the case to ensure that all parties are able to properly prepare.

Chapter 29 of the Code of Criminal Procedure (Continuance) is amended by adding Article 29.035 (For Insufficient Notice of Hearing or Trial). Subsection (a) requires a trial court, notwithstanding Article 28.01 (Pre-Trial) or any other provision of Chapter 29 governing continuance, to grant a continuance of a criminal action on oral or written motion of the state or the defendant if the trial court sets a hearing or trial without providing to the attorney for the state and the defendant, or the defendant's attorney, notice of the hearing or trial at least three business days before the date of the hearing or trial. Subsection (b) provides that the new article does not apply during the period between the date the trial begins and the date the judgment is entered.

Article 29.035 of the Code of Criminal Procedure applies to a criminal action pending before a trial court on or after its effective date (September 1, 2017) regardless of whether the offense that is before the trial court was committed before, on, or after the effective date.

H.B. 4147

Subject: Appeals from a Judgment or Conviction in a Municipal Court of Record

Effective: September 1, 2017

TMCEC: At the time of the passage of H.B. 731, The Uniform Act on Municipal Courts of Record, 1999, the Legislature had no way of knowing how many municipalities would choose to create municipal courts of record or where such courts would be located. Prior to the Act, the creation of a municipal court of record required state legislation. By 2015, there were 155 municipal courts of record in Texas. Notably, only 51 were created by acts of the Legislature. There was also no way of knowing whether such courts would be located in counties with a statutory county court. (Today, statutory county courts only exist in 91 of the Lone Star State's 254 counties.)

H.B. 4147 amends the Government Code to clarify that a county court has jurisdiction of any appeal from a judgment or conviction in a municipal court of record located in that county if the county does not have a county criminal court, county criminal court of appeal, municipal court of appeal, or county court at law.

Section 30.00014(a) of the Government Code (Appeal) is amended to provide that if a county does not have a county court at law under Chapter 25 (Statutory County Courts), the county court has jurisdiction of any appeal.

Section 2 of the bill states that it is intended only to clarify existing law with respect to a judgment or conviction that occurs in a municipal court of record and is appealed to a county court.

S.B. 46

Subject: Juror Identification Numbers

Effective: September 1, 2017

Calling out a juror's name while polling the jury for a verdict in open court can pose a safety risk to the juror, particularly in controversial cases. Allowing judges to use juror identification numbers when polling the jury can reduce this risk.

S.B. 46 amends Article 37.05 of the Code of Criminal Procedure (Polling the Jury) allowing a judge to assign each juror an identification number to use in place of a juror's name for the purpose of polling the jury.

S.B. 291

Subject: Hearing and Use of Writ of Attachment of a Witness

Effective: September 1, 2017

In 2016, a sexual assault victim witness was subject to a writ of attachment, issued in the judge's chambers, and ordered into custody of the Harris County jail. After breaking down during her testimony and leaving the courtroom, she was hospitalized in the county psychiatric hospital for 10 days. Upon discharge from that hospital, she was detained and booked in the Harris County jail. While in jail, she was re-victimized and her mental state rapidly diminished. These events took place during the Christmas holidays and she remained in jail into January. More procedure and accountability can help prevent this sort of horrific event from occurring in Texas.

S.B. 291 adds Article 24.111 of the Code of Criminal Procedure (Hearing Required before Issuance of Certain Writs) requiring a judge to hold a hearing before issuing a writ of attachment to determine if it is in the best interest of justice. A judge should use an affidavit submitted by the requesting attorney to aid in this determination, and the witness to be served with the writ should have an attorney appointed to them.

Other amendments to the Code of Criminal Procedure include Article 24.011 (Subpoena; Child Witness) and Article 24.12 (When Attachment May Issue) which require an attorney who requests a writ of attachment to include a statement of good faith and reason to believe that the witness is material. Article 24.221 (Affidavit Regarding Confinement) and 24.222 (Hearing During Confinement of Witness) requiring a sheriff who takes a witness into custody pursuant to added Article 24.111 to submit an affidavit to the issuing court stating that the person has been taken into custody. A witness confined at least 24 hours may request a hearing regarding whether continued confinement is necessary.

S.B. 291 also adds Article 2.212 of the Code of Criminal Procedure (Writ of Attachment Reporting) requiring the court clerk for a district, statutory county, or county court to report to the Texas Judicial Council a writ of attachment issued by their court not later than 30 days after it is issued.

Substantive Criminal Law

H.B. 9

Subject: Ransomware Offense in the Texas Cybercrime Act

Effective: September 1, 2017

Ransomware is malicious software used to interfere with the victim's ability to access their data on the victim's computer system or network until the victim pays the criminal to return access to the victim.

H.B. 9 amends Chapter 33 of the Penal Code by adding Sections 33.023 and 33.024. Section 33.023 creates a Class C misdemeanor of electronic data tampering (1) for a person who knowingly alters data as it transmits between two computers in a computer network or computer system without the effective consent of the owner, and (2) for a person who knowingly introduces malware or ransomware onto a computer, computer network, or computer system without the effective consent of the owners and without legitimate business purposes. Section 33.023 establishes that software is not ransomware for the purposes of an electronic data tampering offense if the software restricts access to data because authentication is required to upgrade or access purchased content or because access to subscription content has been blocked for nonpayment.

Section 33.024 creates a Class C misdemeanor of intentional decryption of encrypted private information through deception and without a legitimate business purpose. It is a defense to prosecution if the conduct was pursuant to an agreement with the owner for the purpose of assessing or maintaining security of the information or of a computer, computer network, or computer system or if providing other services related to security.

These two Class C misdemeanors can be enhanced to a Class B or Class A misdemeanor, state jail felony, or third, second, or first degree felony depending on the aggregate harm.

H.B. 9 amends Section 33.03 of the Penal Code to add affirmative defenses that the actor was an officer, employee, or agent of a communications common carrier or electronic utility and committed the proscribed act in the course of employment while engaged in an activity that is a necessary incident to service of the communications common carrier or electric utility.

H.B. 351

Subject: Punishment for Forgery and a Related Fee

Effective: September 1, 2017

Last session, the Governor signed H.B. 1396, which updated the property crime "value ladder" to reflect 20 years of inflation. Forgery was unintentionally left out of the threshold adjustment. This amendment corrects this oversight and updates the threshold ladder for forgery crimes related to fake checks, money orders, and other simple transactions to match the penalty ladder for the rest of Texas' theft offenses.

Section 25 contains an amendment of Section 32.21 of the Penal Code, to bring the offense of forgery in line with the damage amounts for all other property crimes, including the similar crime of theft by check. As amended, when an actor engages in conduct to obtain or attempt to obtain a property or service and the value of the property is less than \$100, the offense is a Class C misdemeanor.

In Section 23, Article 102.0071 of the Code of Criminal Procedure is amended to allow a justice court to collect fees from an individual convicted of forging a check per Section 3.506 of the Business and Commerce Code.

H.B. 435

Subject: Carrying Handguns and the Application of Certain Handgun License Laws to Certain Persons

Effective: September 1, 2017

Requiring volunteer emergency services personnel who carry handguns to remove their handguns before they are allowed on certain premises to perform their duties could result in dangerous delays in the rendering of emergency services. H.B. 435 addresses this issue providing a defense to prosecution under Sections 30.06 (Trespass by License Holder with a Concealed Handgun) and 30.07 (Trespass by License Holder with and Openly Carried Handgun) of the Penal Code for license holders who are volunteer emergency services personnel. That term is defined in new Subdivision (18) of Section 46.01 of the Penal Code. Section 12 of the bill provides a similar defense to prosecution under certain subsections of Section 46.035 of the Penal Code (Unlawful Carrying of Handgun by License Holder) for volunteer emergency services personnel, the attorney general, an assistant attorney general, a U.S. attorney, and an assistant U.S. attorney.

Section 13 of the bill amends Section 46.15(a) of the Penal Code making Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) of the Penal Code inapplicable to the attorney general, an assistant attorney general, a U.S. attorney, an assistant U.S. attorney (if licensed to carry a handgun under Chapter 411 of the Government Code), as well as volunteer emergency services personnel if the person is carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code, and engaged in providing emergency services.

Section 7 of the bill permits a state hospital to prohibit a license holder from carrying a handgun on the property of the hospital by providing written notice. A violation could result in a civil penalty.

TMCEC: Section 6 of the bill amends Section 411.209 of the Government Code (Wrongful Exclusion of Handgun License Holder) prohibiting a state agency or political subdivision from putting up signs described by Section 30.06 of the Penal Code, referring to that law, or referring to a license to carry a handgun that wrongfully exclude a license holder from entering places owned or leased by the governmental entity (unless they are prohibited by Section 46.03 or 46.035 of the Penal Code). Section 411.209 was enacted last Session (84th Legislative Session) in the wake of open carry legislation. However, when enacted, this section failed to strike the outmoded “concealed handgun license” (See, Regan Metteauer, “Everything Has Not Changed: What Municipal Courts Need to Know about Guns and New Legislation,” *The Recorder* (January 2016)). H.B. 435 strikes “concealed,” but, aside from correctly naming the license, it is unclear if H.B. 435 makes a substantive change to a city’s liability under Section 411.209. H.B. 435 makes that section inapplicable to a written notice provided by a state hospital under Section 552.002, Health and Safety Code.

H.B. 683

Subject: Misrepresentation of an Object or Vehicle by Use of Law Enforcement Insignia

Effective: September 1, 2017

To maintain public trust in law enforcement, it is important for communities to distinguish between peace officers and private security companies in municipalities.

H.B. 683 removes the population restriction of two million or more in Section 341.904 of the Local Government Code (Possession or Use of Law Enforcement Identification, Insignia, or Vehicle in a Municipality), so that the offense (Class B misdemeanor) may be committed in any municipality.

The bill amends Section 37.12 of the Penal Code (False Identification as Peace Officer; Misrepresentation of Property) to expressly include vehicles in the Class B Misdemeanors found in Subsections (a) and (d).

Additionally, if the item was used or intended for use exclusively for decorative, artistic, or dramatic presentation, such use is no longer a defense to prosecution, but is instead an exception.

As amended, for purposes of Section 37.12, an item bearing an insignia of a law enforcement agency includes an item that contains the word “police,” “sheriff,” “constable,” or “trooper.”

The bill adds language to Subsection (d) that intentionally or knowingly misrepresenting an object as property belonging to a law enforcement agency includes intentionally or knowingly displaying an item bearing an insignia of a law enforcement agency in a manner that would lead a reasonable person to interpret the item as property belonging to a law enforcement agency.

H.B. 1424

Subject: Operation of Unmanned Aircrafts over Certain Facilities and Sports Venues

Effective: September 1, 2017

Concerned observers have noted a lack of restrictions on drone flights above correctional facilities, detention facilities, and large-capacity sports venues in Texas. H.B. 1424 seeks to address security concerns by restricting the unauthorized operation of unmanned aircraft over these facilities and venues.

H.B. 1424 amends Section 423.0045 of the Government Code to expand the conduct that constitutes an offense involving the unlawful operation of an unmanned aircraft over certain facilities to include operation not higher than 400 feet above ground level over a correctional facility or detention facility; allowing an unmanned aircraft to make contact with a correctional facility or detention facility, including any person or object on the premises of or within the facility; or allowing an unmanned aircraft to come within a distance of a correctional facility or detention facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

The bill defines “correctional facility” as a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice, a municipal or county jail, or a confinement facility operated by or under contract with the Federal Bureau of Prisons and defines “detention facility” as a facility operated by or under contract with U.S. Immigration and Customs Enforcement for the purpose of detaining aliens and placing them in removal proceedings.

The bill enhances the penalty for an offense involving the unlawful operation of an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility from a Class B misdemeanor to a Class A misdemeanor if the actor has previously been convicted of the offense created by the bill for the unlawful operation of an unmanned aircraft over a sports venue.

H.B. 1424 also adds Section 423.0046 creating a Class B misdemeanor for a person who operates an unmanned aircraft not higher than 400 feet above ground level over a sports venue, defined by the bill as an arena, automobile racetrack, coliseum, stadium, or other type of area or facility that has a seating

capacity of 30,000 or more people and is primarily used for one or more professional or amateur sports or athletics events.

The bill exempts the following from committing the offense: the federal government, the state, a governmental entity, or a law enforcement agency; a person under contract with or otherwise acting under the direction or on behalf of any of those entities; an operator of an unmanned aircraft that is being used for a commercial purpose, if the operator is authorized by the FAA to conduct operations over the airspace; an owner or operator of the sports venue; a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the sports venue; and a person who has the prior written consent of the owner or operator of the sports venue.

The penalty for such an offense enhances from a Class B misdemeanor to a Class A misdemeanor if the actor has previously been convicted of the offense or of an offense involving the unlawful operation of an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility.

TMCEC: This is the Legislature's second attempt to tweak the Texas Privacy Act since it was passed into law four years ago. The Texas Privacy Act was intended to address privacy concerns over images of individuals or private property captured by unmanned aircraft. See, Colin Norman, "The Texas Privacy Act: Tall Enough Fences to Keep Out Nosy Drones?," *The Recorder* (April 2014). In addition, the Act sought to remove certain airspace from drone use that is over sensitive or critical areas. Currently, these include areas such as dams, refineries, and electrical power substations. H.B. 1424 adds correctional facilities and sports venues to that list.

This turned out to be a timely, and prescient, addition to the Texas Privacy Act. In July 2017, a South Carolina inmate at a maximum security prison managed to orchestrate a successful escape using a drone to deliver wire cutters to the prison. Separately, the Legislature addressed other issues with the Texas Privacy Act in S.B. 840 and H.B. 1643. Considering the higher level misdemeanors attached to the offense spelled out in H.B. 1424, this could be one part of the Texas Privacy Act that proves to be the effective deterrent that privacy advocates hoped for in 2013.

H.B. 1643

Subject: Regulation of Unmanned Aircraft by Political Subdivisions

Effective: September 1, 2017

H.B. 1643 adds Section 423.009 of the Government Code (Regulation of Unmanned Aircraft by Political Subdivision) authorizing a municipality to adopt or enforce any ordinance, order, or other similar measure regarding the use of an unmanned aircraft: (1) during a special event (defined in the statute); (2) by the municipality; or (3) near a facility or infrastructure owned by the municipality (if the municipality provides notice and a hearing and receives federal authorization). However, an ordinance, order, or other similar measure that regulates outside these parameters violates Subsection 423.009(b) and is void and unenforceable.

The bill also amends Section 423.0045(a)(1) (Offense; Operation of Unmanned Aircraft over Critical Infrastructure Facility) by adding structures that provide wired or wireless telecommunication services and concentrated animal feeding operations to the list of designated critical infrastructure facilities protected from unauthorized flight by unmanned aircrafts. Additionally, it adds to the list certain oil and gas locations enclosed by fences or other physical barriers, including: oil or gas drilling sites; groups of tanks used to store crude oil, gas or chemical production facilities; oil or gas wellheads; and any oil or gas

facility that has an active flare. An offense is a Class B misdemeanor (Class A misdemeanor if the person has been convicted previously of an offense).

TMCEC: In absence of specificity in Section 423.009, is a criminal offense created by municipal ordinance a Class C misdemeanor with a maximum fine of \$500 per Section 54.001 of the Local Government Code?

Other bills related to the use of drones: S.B. 840 and H.B. 1424.

H.B. 1771

Subject: Discharge of a Firearm along the Canadian River in Potter County

Effective: September 1, 2017

H.B. 1771 amends Chapter 287 of the Parks and Wildlife Code (Potter County) by adding Section 287.001 (Discharge of Prohibited Firearm) to make it a Class C misdemeanor for a person to discharge a firearm or shoot an arrow in or on the bank of the Canadian River, within the designated area specified in this section between the Canadian River extending from the intersection of U.S. Highways 287 and 87.

This section does not apply to individuals acting within the scope of their duty as a peace officer or an employee of the Texas Department of Parks and Wildlife, the discharge of a shotgun loaded with ammunition that releases only shot when discharged. This section does not limit the ability of a license holder to carry a concealed handgun under the authority of Subchapter H, Chapter 411 of the Government Code.

H.B. 1810

Subject: Offense of Possession or Promotion of Lewd Visual Material Depicting a Child

Effective: September 1, 2017

Currently, state law offenses involving child pornography leave a grey-area for certain images that, while depicting a child in a sexually suggestive manner, do not fit the legal requirements to be punished under Section 43.26 of the Penal Code (Possession or Promotion of Child Pornography).

H.B. 1810 addresses this issue by adding Section 43.262 to the Penal Code (Possession or Promotion of Lewd Visual Material Depicting a Child) to make it a state jail felony for a person to possess or promote images that depict the lewd exhibition of a child. A person commits the offense if they promote or possess “visual material” as defined in 43.26(b) that depicts a child under 18 clothed or unclothed in a sexually suggestive manner, without literary, artistic, or scientific merit, and the person does so in the interest of sexual gratification. An offense under this section is a state jail felony. The punishment can be enhanced to a third or second degree felony for subsequent convictions. It is not a defense that the depicted underage person consented to the creation of the visual material.

H.B. 1819

Subject: Engaging in Certain Conduct with Respect to a Firearm Silencer

Effective: September 1, 2017

H.B. 1819 purportedly addresses restrictions related to firearm silencers that affect the availability of these products for individuals who wish to purchase them for hearing protection. The bill amends Section 46.05 of the Penal Code (Prohibited Weapons) to exclude a firearm silencer that is classified as a curio or relic by the U.S. Department of Justice or otherwise possessing, manufacturing, transporting, repairing, or selling a firearm silencer in compliance with federal law.

The bill also adds language to Subsection 46.05(l) excluding from the offense explosive weapons, machine guns, and short-barrel firearms that are otherwise not subject to the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

TMCEC: To be clear, it is still illegal to have a silencer in Texas (as long as it is not a curio or relic, or is otherwise permitted by the federal government). The buried lead lies in the added language in Subsection 46.05(l) resulting from a Senate amendment. Some gun enthusiasts refer to this language as “The Mossberg Amendment,” named for the Mossberg Shockwave, and believe this bill to legalize that particular firearm in Texas.

H.B. 1884

Subject: Additional Community Service Hours for Repeat Litter Offenses

Effective: September 1, 2017

Every year, the state spends millions of dollars on cleanup for litter and illegal dumping. A recent study by Texans for Clean Water revealed the City of Houston spent over \$13 million in 2015 for litter cleanup. According to a recent Texas Department of Transportation survey, there has been an 81 percent increase in litter along state roads and highways.

H.B. 1884 seeks to deter further acts of littering and dumping by requiring repeat offenders of offenses under Sections 365.012 (Illegal Dumping; Discarded Lighted Materials; Criminal Penalties), 365.013 (Rules and Standards; Criminal Penalty), and 365.016 (Disposal of Litter in a Cave; Criminal Penalty) of the Health and Safety Code to perform up to 60 community service hours as provided by Article 42A.304(e) of the Code of Criminal Procedure, in addition to satisfying any fine or penalty required by these sections. Amended Article 42A.304(e) permits a court to credit the amount of community service performed by a defendant under that subsection toward any amount of community service the defendant is ordered to perform under another provision of this code as a result of the defendant’s inability to pay a fine or cost imposed in the judgment for the applicable offense.

TMCEC: While the amendments to the offenses in Chapter 365 of the Health and Safety Code contemplate an offense may be a Class C misdemeanor, it is important to note that this bill makes no reference to community service as provided in Chapter 45 (Justice and Municipal Courts). Chapter 42A of the Code of Criminal Procedure is inapplicable to municipal courts (including municipal courts of record). H.B. 1884 only seems contemplates adjudication of illegal dumping and mandatory community service in county and district courts.

H.B. 1935

Subject: Restrictions on Carrying Knives in Certain Locations

Effective: September 1, 2017

H.B. 1935 amends the definition of illegal knives in Chapter 46 of the Penal Code (Weapons) (and Sections 52.031 and 53.01 of the Family Code) replacing the term “illegal knife” with “location-restricted knife,” defined in amended Section 46.01(6) of the Penal Code (Definitions) as a knife with a blade over five and one-half inches. The bill removes references to the following in that provision: hand instrument designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.

Additionally, the bill amends Section 46.02 of the Penal Code (Unlawful Carrying of Weapons), removing “illegal knife” from the applicability of that offense. However, the bill adds Subsection (a-4) creating a

new Class C misdemeanor for persons under the age of 18 that intentionally, knowingly, or recklessly carry a location-restricted knife unless it is (1) on the person's own premises; (2) inside of or directly en route to a motor vehicle or watercraft owned by the person or under their control; or (3) under the direct supervision of the person's parent or legal guardian.

Amended Subsection 46.15(e) provides that Section 46.02(a-4) does not apply to a person carrying a location-restricted knife used in a historical demonstration or in a ceremony in which the knife is significant to the performance of the ceremony.

Under current law, an offense under Section 46.03(a) of the Penal Code (Places Weapons Prohibited) is a third degree felony. H.B. 1935 adds Subsection (g-1) providing that if the weapon that is the subject of the offense is a location-restricted knife, an offense under this section is a Class C misdemeanor, except that the offense is still a third degree felony if the offense is committed under Subsection (a)(1) (taking or possessing a prohibited weapon on the physical premises of a school or educational institution).

In the same vein, H.B. 1935 adds Subsection 46.03(a-1) prohibiting carrying a location-restricted knife on additional premises, punishable as a Class C misdemeanor. The premises include businesses that primarily serve alcoholic beverages on-site (51 percent or more of their revenue); any high school, collegiate, or professional sporting event or interscholastic event (unless the person is a participant and such a knife is being used in the event); correctional facilities; hospitals, nursing facilities, and mental hospitals; amusement parks; or any established place of religious worship.

TMCEC: As a result of H.B. 1935, come September 1, it will generally be lawful for a person to carry what is classified under current law as an illegal knife. This change is not as unbridled as it may seem. The bill creates certain restrictions for "location-restricted" knives (knives with a blade over five and one-half inches), including places where such knives are prohibited and restrictions on persons under the age of 18. Amended law will, however, treat such knives differently from other weapons, especially regarding punishment.

Come September 1, it will no longer be a third degree felony under amended Section 46.03 of the Penal Code to possess or go with an illegal knife on the premises of any government court or offices utilized by the court. It is instead a Class C misdemeanor to possess or go with a "location-restricted" knife on such premises.

The bill does not legalize daggers, bowie knives, or swords for purposes of Section 46.03. Those are statutorily undefined terms that created confusion for both law enforcement and knife owners. The bill simplifies the definition of the type of knife that is criminalized by Chapter 46: a knife with a blade over five and one-half inches. "Knife" is defined in Section 46.01(7) as any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument. If the blade of the dagger, bowie knife, or sword is over five and one-half inches, it is a location-restricted knife for purposes of Chapter 46 and a person is prohibited from possessing or going with it on the premises of a government court or offices utilized by the court.

As introduced, this bill would have removed altogether the category of illegal knife. An amendment resulting in the version of the bill that passed came after Harrison Brown, a student at the University of Texas in Austin was stabbed to death on campus by another student on May 1, 2017 with a weapon described as a Bowie knife with a blade longer than five and one-half inches. Three others were injured.

H.B. 2817

Subject: Punishment and Deterrence of Crimes Involving Bison, Cattle, and Horses

Effective: September 1, 2017

Interested parties contend that criminal penalties for individuals who kill another person's cattle, bison, or horses are inconsistent with similar offenses of parallel magnitude. H.B. 2817 addresses this issue by expanding the conduct that constitutes a third degree felony criminal mischief offense to include such behavior. H.B. 2817 amends Section 28.03 of the Penal Code to expand the conduct constituting a third degree felony criminal mischief offense to include conduct in which an actor causes the death of one or more head of cattle or bison or one or more horses by discharging a firearm or other weapon or by any other means. H.B. 2817 also creates an exception to the application of the criminal mischief statute for intentionally or knowingly damaging, destroying, or tampering with the tangible property of the owner when the personal property was a head of cattle or bison killed, or a horse killed, in the course of the actor's regular agricultural labor duties and practices, or in discharge of official duties as a member of the Armed Forces.

TMCEC: Don't mess with a person's cattle in Texas. The new offense would be a third degree felony: that's two to ten years imprisonment in the Texas Department of Criminal Justice.

H.B. 2880

Subject: Threat of Use or Exhibit a Firearm on School Property or a School Bus

Effective: September 1, 2017

Some school resource officers have indicated the need for a criminal punishment for the threatened exhibition or use of a firearm in or on school property or on a school bus that recognizes the severity of the threat but also does not bring the lifelong consequences of a felony charge against a student. H.B. 2880 addresses that need by amending Section 37.125 of the Education Code to decrease the penalty for such an offense from a third degree felony to a Class A misdemeanor, unless the actor was in possession of or had immediate access to a firearm. In the latter case, the offense would remain a third degree felony.

H.B. 2908

Subject: Enhanced Criminal Penalties for Crimes Committed Against Peace Officers or Judge

Effective: September 1, 2017

Recent tragic events have hastened a call for greater protection for peace officers and judges from offenses committed because of bias or prejudice against public servants responsible for the the enforcement of laws.

H.B. 2908 amends current law relating to the punishment for a criminal offense committed against a person because of bias or prejudice on the basis of status as a peace officer or judge and increases criminal penalties.

Article 42.014 of the Code of Criminal Procedure (Finding that Offense was Committed Because of Bias or Prejudice) is amended to add peace officers and judges to the list of persons which penalties are enhanced if the criminal act was committed based on a bias or prejudice.

Section 20.02 of the Penal Code (Aggravated Assault) is amended to add Subsection 20.02(c)(3) to make it a Class A misdemeanor for a person to restrain an individual he knows is a peace officer or judge while

the officer or judge is lawfully discharging an official duty, in retaliation or because of an exercise of official power or performance of an official duty as a peace officer or judge.

Section 22.01 of the Penal Code (Assault) is amended to add Subsection (b-2) to make it a second degree felony for a person to assault a peace officer or judge while the officer or judge is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a peace officer or judge.

Section 22.07 of the Penal Code (Terroristic Threat) is amended to add Subsection (c-1) to make it a state jail felony to threaten to commit an offense involving violence against a person they know is a peace officer or judge.

Section 49.09 of the Penal Code is amended to enhance an offense committed under Section 49.07 (Intoxication Assault) to a first degree felony if it is shown on the trial of the offense that the person caused serious bodily injury to a peace officer or judge while the officer or judge was in the actual discharge of an official duty.

TMCEC: Court security and the protection of public servants turned out to be recurring themes this session. The attempted assassination of Travis County District Judge Julie Kocurek spurred the Legislature to pass S.B. 42, providing new protections for judges and their spouses. Elsewhere, the Legislature looked at the availability of public information to those who may abuse it across the state. H.B. 2908 addresses not only crimes against judges, however, but also law enforcement. This follows the ambush of police officers by a sniper in Dallas last year. In the Dallas shooting, five officers were killed and nine others were wounded, including two civilians. H.B. 2908 specifically increases the punishment in the Penal Code for crimes committed against both judges and law enforcement, and adds both peace officers and judges to the affirmative finding of bias or prejudice required by Article 42.014 of the Code of Criminal Procedure.

H.B. 3019

Subject: Injury to a Child, Elderly, or Disabled Individual

Effective: September 1, 2017

Interested parties express concern over the current scope of the offense of injury to a child, elderly individual, or disabled individual in relation to negligent operators of boarding home facilities. H.B. 3019 seeks to address this concern by including certain conduct committed by persons associated with such a facility in the conduct that constitutes that offense.

H.B. 3019 amends Section 22.04 of the Penal Code to specifically include a boarding home to the list of institutions held to a higher level of culpability for the offense of injury to a child, elderly individual, or disabled individual. The bill further adds mental illness, as defined by Section 571.003 of the Health and Safety Code to the definition of disabled individual in Section 22.04(c)(3) of the Penal Code.

H.B. 3453

Subject: Regulation of Game Rooms in Certain Counties

Effective: June 15, 2017

Currently, certain counties have the authority to regulate certain aspects of game rooms and assert that this authority offers greater protection to promote the public health, safety, and welfare of residents in those counties and would similarly benefit other counties. H.B. 3453 amends Section 234.132 of the Local Government Code to extend the authority to regulate game rooms to a county that is located in the Permian

Basin, a county along the Louisiana Border, and two other counties with certain populations. A violation of a game room regulation under Section 234.132 is a Class A misdemeanor.

H.B. 3535

Subject: Taking of Feral Hogs and Coyotes Using Hot Air Balloon

Effective: September 1, 2017

The growing feral hog and coyote population continues to be a significant problem for landowners across Texas, specifically because of damage to crops.

H.B. 3535 amends Chapter 43 of the Parks and Wildlife Code (Special Licenses and Permits) by adding Section 43.1076 permitting a qualified landowner or landowner's agent to contract to participate as a hunter or observer in using a hot air balloon to hunt depredating feral hogs or coyotes under the authority of Subchapter G (Permits to Manage Wildlife and Exotic Animals from Aircraft).

TMCEC: Under Section 43.107 of the Parks and Wildlife Code (not amended by this bill), failure to timely submit required reports regarding permits to use an aircraft to manage wildlife and exotic animals (which, because of this bill will include hot air balloons) is a Class C Parks and Wildlife Code misdemeanor.

Why hot air balloons? Proponents of the bill point to them as a particularly effective method for taking these animals. Under current law (Section 43.1075), landowners may use helicopters to take depredating feral hogs or coyotes, however, that is expensive and the noise from the helicopter scares the animals away. A hot air balloon is quieter and more stable to shoot from.

S.B. 7

Subject: Improper Relationship Between Educator and Student

Effective: September 1, 2017

There have been too many cases involving an educator who has an inappropriate relationship with a student in one school district and then moves and obtains employment in another school district without the new school district ever receiving notice of the inappropriate relationship. The goal of S.B. 7 is to reduce the risks faced by school districts and students by closing loopholes and providing penalties for conduct relating to an inappropriate relationship between an educator and a student.

Section 21.12 of the Penal Code (Improper Relationship between Educator and Student) requires a school employee hold an appropriate certificate for their position at the school in order to be charged with the offense. S.B. 7 amends that section to strike the certificate language and clarifies that any employee described in Section 21.003(a) of the Education Code can be charged with this offense regardless of holding a certificate or not. Section 21.003(a) includes teachers, teacher interns or teacher trainees, librarians, educational aides, administrators, educational diagnosticians, and school counselors. An offense under this section is a felony of the second degree.

S.B. 7 eliminates language that requires an educator work in the same school district that the student attends or that the educator provide education services to the student, thereby expanding the offense.

S.B. 7 creates a state jail felony of failure to follow reporting procedures as described in Section 21.006(c) of the Education Code, by principals or superintendents if it is done with the intent to conceal an educator's criminal record or alleged incident of misconduct.

TMCEC: In September 2016, the Texas Court of Criminal Appeals affirmed a decision of the Ninth Court of Appeals in Beaumont that Section 21.12 did not include within the scope of prohibited relationships, relationships between students and a school district peace officer. *State v. Sutton*, PD-1051-15 (Tex. Crim. App. Sept. 14, 2016). Many suspected that in 2017 the Legislature would broaden the scope of employees included under the offense. While the offense was expanded, the types of school employees described in Section 21.003(a) was not expanded by S.B. 7.

S.B. 8

Subject: Offenses Related to Dismemberment Abortions, Partial Birth Abortions, Reporting Requirements, and Donating or Selling Human Fetal Tissue

Effective: September 1, 2017

S.B. 8 adds Subchapters F (Partial-Birth Abortions) and G (Dismemberment Abortions) to Chapter 171 of the Health and Safety Code (Abortion). Section 171.102 of the Health and Safety Code prohibits a physician or other person from knowingly performing a partial birth abortion (defined) and Section 171.153 of the Health and Safety Code prohibits a person from intentionally performing a dismemberment abortion (defined) unless necessary in a medical emergency; both sections are punishable as a state jail felony.

Neither offense applies to a woman upon whom each respective type of abortion is performed. The offense in Section 171.102 does not apply to a physician who performs a partial-birth abortion that is necessary to save the life of a mother under certain circumstances. The offense in Section 171.153 does not apply to an employee or agent acting under the direction of a physician performs a dismemberment abortion, or a person who fills a prescription or provides equipment used in a dismemberment abortion.

Added Section 171.154 contains extensive provisions regarding the statutory construction of Subchapter G.

The bill adds Section 173.007 of the Health and Safety Code creating a Class A misdemeanor for offering a woman monetary or other consideration to have an abortion for the purpose of donating human fetal tissue. It is also a Class A misdemeanor to knowingly or intentionally solicit or accept tissue from a fetus gestated solely for research purposes. Both are punishable by a fine not to exceed \$10,000.

S.B. 8 amends Section 245.11 of the Health and Safety Code creating a Class A misdemeanor for violating physician reporting requirements laid out in Subsections (b), (c), and (d) of this section.

The bill amends the definition of abortion in Section 245.002 of the Health and Safety Code and adds references to that section in other sections of the Health and Safety Code and certain sections of the Family Code that define abortion.

Under added Section 48.03 of the Penal Code, a person commits a state jail felony if the person knowingly offers to buy, offers to sell, acquires, receives, sells, or otherwise transfers any human fetal tissue for economic benefit. It is a defense to prosecution that employees or contractors of an accredited public or private institution of higher education acquired, received, or transferred human fetal tissue while fulfilling a donation authorized by Section 173.005 of the Health and Safety Code. This section does not apply to human fetal tissue acquired, received, or transferred for other certain purposes.

S.B. 208

Subject: Regulating the Sale of Explosives to a Metal Recycling Entity

Effective: September 1, 2017

Undetonated explosives are dangerous. Recycling metal is an important industry. S.B. 208 addresses the dangers associated with undetonated explosive devices that are presented for sale at metal recycling entities and notes that the presence of such devices at metal recycling entities poses a threat to the general public. S.B. 208 seeks to address these concerns by providing for the regulation of metal recycling entities with regard to explosive devices.

S.B. 208 amends Section 1956.040 of the Occupations Code to create a Class A misdemeanor for knowingly selling an explosive device to a metal recycling entity, a metal recycling entity knowingly buying such explosive device, or a metal recycling facility storing or allowing the storage of an explosive device on their premises. A metal recycling facility is considered to be storing an explosive device if they have not reported its presence within 72 hours of being presented the explosive device for sale or attempted sale.

These three new Class A misdemeanors are enhanced to a second degree felony if at trial it is shown that the offense caused death or serious bodily injury as a result of the detonation of an explosive device. A metal recycling entity shall report the possession of an explosive device unknowingly purchased not later than the close of business on the entity's first working day after the date the possession of the device is discovered.

S.B. 227

Subject: Repeal of a Loophole Preventing Prosecution for Certain Substances in Penalty Group 2 of the Texas Controlled Substances Act.

Effective: September 1, 2017

Texas state law classifies dangerous synthetic drugs under the Texas Controlled Substances Act. Specifically, S.B. 172, 84th Legislature, Regular Session, 2015, provided a comprehensive approach to classifying synthetic hallucinogens, also known as "25-I" or "N-Bomb." The enrolled version of S.B. 172, signed by the Governor, included a provision codified as Section 481.103(d) of the Health and Safety Code. This provision prohibited a conviction for manufacture, delivery, or possession for a substance in Penalty Group 2 of the Texas Controlled Substances Act, as long as that substance was approved by the federal Food and Drug Administration. While this provision was well-intentioned to provide an extra layer of statutory security to consumers who use a legally prescribed substance, the practical effect was not so clear. There had been reports that, because of this language, some Texas prosecutors were unable to convict individuals who possessed or delivered federally approved drugs that were not prescribed to those individuals. The language in Section 481.103(d), Health and Safety Code, is does not need to remain in the statute in order to protect patients who have been legally prescribed a substance that appears in Penalty Group 2 of the Texas Controlled Substances Act. (Section 481.116(a) of the Health and Safety Code). Therefore, S.B. 227 repeals the offending language, aligning Penalty Group 2 with other provisions of the Texas Controlled Substances Act.

TMCEC: In recent years the state has struggled to keep up with regulation of synthetic drugs. The ever changing chemical compounds have, in the past, frustrated the Legislature's attempts to clearly outlaw certain synthetics. This is the second attempt to address "25-I" after the 84th Legislature's first pass. This

issue will likely not be going away. For more information on issues with these so-called designer drugs, see Ned Minevitz's article, "Designer Drugs: How Drivers Might be Circumventing Intoxicated Driving Laws" *The Recorder* (January 2014).

S.B. 840

Subject: Unmanned Aircraft Authorized to Capture Images of Private Individuals or Property Within 25 Miles of the U.S. Border for Law Enforcement

Effective: September 1, 2017

Current law prohibits the use of an unmanned aircraft to capture an image of an individual or privately owned real property in this state "with the intent to conduct surveillance on the individual or property captured in the image." The introduced version of the bill that created this provision included an exception which provided that it would be a "defense to prosecution" that an image was captured within 25 miles of the border "for the sole purpose of enforcing border laws." The version of the bill that ultimately passed, and the current law today, break this exception in two: current law contains a law-enforcement exception and a blanket exception for images captured within 25 miles of the border, regardless of purpose.

Under current law, then, it would appear to be entirely lawful for any person for any reason to "use an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image," provided the person or property is within 25 miles of the border. S.B. 840 addresses this issue by amending Section 423.002 (Nonapplicability) of the Government Code and also provides an additional defense to the laundry list enumerated in Subsection (a).

TMCEC: This is the Legislature's second attempt to tweak the Texas Privacy Act since it was passed into law four years ago. The Texas Privacy Act was intended to address privacy concerns over images of individuals or private property captured by unmanned aircraft. See, Colin Norman, "The Texas Privacy Act: Tall Enough Fences to Keep Out Nosy Drones?" *The Recorder* (April 2014).

At the time, TMCEC noted that enforcement of the Class C misdemeanors in the Act could be cumbersome partly due to the lengthy list of specific situations where the Act was "not applicable" (the list contained 19 very specific situations, procedurally defenses, where the Act did not apply). In 2015, the Legislature again amended the Act, adding two more defenses to the list, and bringing the total to 21. S.B. 840 continues that trend, this time renumbering the list, expanding law enforcement permitted uses, and adding insurance companies. In addition, another bill, H.B. 1424, separately addressed offenses under the Act. It remains to be seen if the Subsection Texas Privacy Act will serve as an effective enforcement tool of privacy rights in Texas.

S.B. 1232

Subject: Inappropriate Conduct Between a Person and an Animal

Effective: September 1, 2017

S.B. 1232 creates an offense in the Penal Code for the crime of "bestiality." Current law only classifies sexual crimes against animals as "public lewdness" under Section 21.07 of the Penal Code.

Bestiality is generally defined as an act that involves the touching of the mouth or genital region of a person to the mouth or genital region of an animal. A person also commits an offense if they cause that

activity, promote that activity, allow the activity to occur on their premises, or buy/sell an animal for the purpose of that activity. An offense of this nature is a state jail felony. If the animal is seriously harmed or killed in the commission of the offense, the offense is a second degree felony. If community supervision is ordered, a judge may cause a defendant to surrender all animals in their possession, prohibit a defendant from owning/possessing an animal, or require counseling or other treatment.

TMCEC: Note that in addition to this new offense, S.B. 1232 creates a new presumption at cruelly treated animal hearings (Subchapter, B Disposition of Cruelly Treated Animal of Chapter 821 of the Health and Safety Code). A conviction for bestiality is now *prima facie* evidence that *any* animal in that person's possession has been cruelly treated.

S.B. 1390

Subject: Exempting Research Institutions from Tax Stamp Requirements for Cigarettes

Effective: September 1, 2017

Chapter 154 of the Tax Code currently provides for a Class A misdemeanor for possession of cigarettes that do not have a tax stamp affixed to the packaging and a third degree felony for their transportation. S.B. 1390 adds Section 154.026 to the Tax Code which exempts cigarettes sold by a manufacturer directly to a research facility exclusively for research purposes from having a tax stamp. Such cigarettes should contain package labeling with "Experimental Use Only," "Reference Cigarettes," or other similar wording. These unstamped cigarettes could be excepted from the criminal offense.

S.B. 1553

Subject: Requirements for Ejecting an Unauthorized Person from School Grounds

Effective: June 15, 2017

It is a Class C misdemeanor under current law (Section 37.107 of the Education Code) for an unauthorized person to trespass on school grounds. S.B. 1553 amends Section 37.105 of the Education Code, which regulates the ejection of unauthorized persons from school grounds, to provide that an administrator, resource officer, or peace officer may only eject a person if that person poses a substantial risk of harm to any person or the person behaves in a manner that is inappropriate for a school setting. The school administrator, resource officer, or peace officer must issue a verbal warning that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; the person must persist in that behavior before they can be ejected.

TMCEC: The amendment described above is in Section 5 of the bill. Other changes in the law contained in Sections 1-3 take effect on September 1, 2017.

S.B. 1649

Subject: Repeated Criminal Trespass on a College Campus

Effective: September 1, 2017

Colleges and universities across Texas are unique environments that strive to provide teaching, scholarship, and innovation. Given that the nature of these environments makes them attractive places; they may attract individuals with malicious and dangerous intentions. Some have argued that these individuals are insufficiently deterred by current criminal trespass penalties. S.B. 1649 seeks to improve campus safety by revising the conduct that constitutes the offense of criminal trespass.

S.B. 1649 amends Section 30.05 of the Penal Code to allow the enhancement of a charge of criminal trespass to a Class A misdemeanor if the commission of that crime takes place on a college campus and the defendant has been previously convicted of trespass on a college campus. At the punishment stage of a trial in which the prosecutor seeks to increase the punishment under this amended section, the defendant may avoid the enhancement by showing, by a preponderance of evidence, that they were engaging in speech protected by the 1st Amendment to the U. S. Constitution.

TMCEC: S.B. 1649 was no doubt in part influenced by the murder of 18 year old Haruka Weiser on the University of Texas at Austin campus in April 2016. Weiser was walking back to her campus dorm room when she was allegedly assaulted and murdered by Meechaiel Criner, a homeless 17-year-old drifter who was reportedly on the campus attempting to open car doors. During the investigation, students indicated that a significant homeless population in the area had been an ongoing concern for years. This was further borne out by University police reports, indicating that there had been 165 crimes involving people unaffiliated with the school that year alone. S.B. 1649 makes trespass on the grounds of an institution of higher learning a Class A misdemeanor (alongside current offenses such as trespass at a critical infrastructure facility and trespass while carrying a deadly weapon).

S.B. 1871

Subject: Theft of Petroleum Products

Effective: September 1, 2017

Growing oil field fuel and equipment theft in Texas includes increasingly sophisticated hydrocarbon theft operations, pipe and scrap metal theft, solar panel and battery theft, and vandalism. Booms in the Eagle Ford Shale and the Permian Basin have made the oil and gas industry a prime target for criminals, and the increased oil and gas activity has led to increased crime rates. Yet, even with the recent downturn, crime rates have not decreased; layoffs and disgruntled workers reportedly account at least in part for this continued theft. The FBI-led Oilfield Theft Task Force in Midland estimates that the Permian Basin region alone averages between \$200,000 and \$300,000 in theft a month in tools, pipes, and valves that easily can be resold. What's more, that figure does not include the one to three percent of estimated stolen product stolen in the state. Based upon production of more than one billion barrels of oil and condensate in Texas in 2016, the ESC estimates that industry is realizing an annual loss of 10 to 30 million barrels, equivalent to a revenue loss of \$450 million to almost \$1.5 billion at today's prices. While currently it is illegal to steal petroleum products and oil and gas equipment, stakeholders believe a more specific, targeted oil and gas theft statute with a steeper penalty ladder would provide prosecutors with a better tool to dismantle these criminal enterprises, allowing them to put heightened pressure on a defendant to implicate other persons "higher up the chain" in the criminal enterprise.

To address these concerns, S.B. 1871 creates a new offense, Section 31.19 of the Penal Code: (Theft of Petroleum Products or Oil and Gas Equipment). A person commits an offense if the person unlawfully appropriates petroleum products with the intent to deprive the owner of the property by possessing, removing, delivering, receiving, purchasing, selling, moving, concealing, or transporting the petroleum product; or making or causing a connection to be made with, or drilling or tapping or causing a hole to be drilled or tapped in, a pipe, pipeline, or tank used to store or transport a petroleum product. A person also commits an offense if the person unlawfully appropriates oil and gas equipment with the intent to deprive the owner of the oil and gas equipment. For purposes of this offense, appropriation is unlawful if it is without the owner's effective consent. An offense is a felony. Classifying the degree of felony is based upon the total value of the stolen petroleum products or oil and gas equipment. By reducing the amount of oil that is sold illegally, S.B. 1871 aims to minimize economic damage to the oil and gas industry.

TMCEC: Oil and Texas go together like chips and salsa. It should come as no surprise that petroleum products and oil and gas equipment are to be treated distinctly from other types of theft. Under the general theft penalty ladder, theft of under \$100 is a Class C misdemeanor. Under Section 31.19, if the value of the object stolen is less than \$10,000, the offense is a state jail felony.

Traffic Safety and Transportation

H.B. 62

Subject: Criminal Offense of Using a Wireless Communication Device While Operating a Motor Vehicle; Alex Brown Memorial Act

Effective: September 1, 2017

Distracted driving continues to be a significant factor in property damage, injury, and death on this state's roads and highways. Prior to passing this bill, Texas was one of just four states with no statute that addressed distracted driving on a statewide level. H.B. 62, the Alex Brown Memorial Act, prohibits the use of a wireless communication device for electronic messaging while operating a motor vehicle unless the vehicle is stopped.

The bill adds Section 545.4251 of the Transportation Code (Section 8), under which an operator commits an offense if the operator uses a portable wireless communication device (defined by the statute) to read, write, or send an electronic message (also defined) while operating a motor vehicle unless the vehicle is stopped. To be prosecuted, the behavior must be committed in the presence of or within the view of a peace officer or established by other evidence.

Affirmative defenses include using a portable wireless communications device (1) in conjunction with a hands-free device, (2) to navigate using a GPS or navigation system, (3) to report illegal activity, (4) to summon emergency help, (5) to enter information into a software application that provides information relating to traffic and road conditions to users of the application, (6) to read an electronic message the person reasonably believes to concern an emergency, (7) to relay information in the course of the operator's occupational duties to a dispatcher or digital network or software application service (if the device is permanently or temporarily affixed to the vehicle), or (8) to activate a function that plays music.

It is not an offense for operators of authorized emergency or law enforcement vehicles to use a portable wireless communication device while acting in an official capacity or for operators licensed by the Federal Communications Commission to operate a radio frequency device other than a portable wireless communication device.

An offense under Section 545.4251 is punishable by a fine of at least \$25 and not more than \$99 unless the defendant has been previously convicted at least one time of an offense under that section (if shown at trial). Then the fine range is \$100 - \$200. However, it is a Class A misdemeanor punishable by a fine not to exceed \$4,000 and confinement in jail for a term not to exceed one year if the defendant caused the death or serious bodily injury of another person (if shown at trial).

A peace officer who stops a motor vehicle for an alleged violation of Section 545.4251 may not take possession of or otherwise inspect a portable wireless communication device in the possession of the operator unless authorized by other law. The bill also amends Section 543.004 of the Transportation Code requiring an officer to issue a written notice to appear if the offense is the use of a wireless communication device under Section 545.4251.

Section 545.4251 preempts all local ordinances, rules, or other regulations adopted by a political subdivision relating to the use of a portable wireless communication device by the operator of a motor vehicle to read,

write, or send an electronic message (See the commentary for this bill, *supra*, for a discussion of the effect of the Special Session called by the Governor on preemption.).

H.B. 62 amends Section 708.052 of the Transportation Code prohibiting the Department of Public Safety from assigning points to a person's license if the person is convicted of the offense in Section 545.4251.

This bill also adds a specific penalty to Section 545.424 of the Transportation Code (Operation of a Vehicle by Person Under 18 Years of Age): a fine of at least \$25 and not more than \$99 unless the defendant has been previously convicted at least one time of an offense under either Subsection 545.424(a) or (b); then the offense is punishable by a fine of at least \$100 and not more than \$200. Previously, Section 545.424 did not apply to a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit. As amended, only Subsection 545.424(a-1) does not apply to such a person.

Section 6 of the bill amends the definition of "hands-free device" in Section 545.425 of the Transportation Code.

Section 7 also amends Section 545.425 of the Transportation Code requiring a municipality, county, or other political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle to include on the required signs whether use of a wireless communication device with a hands-free device is allowed in the political subdivision. Section 8 of the bill requires the Texas Department of Transportation to post certain signs.

TMCEC: Governor Abbott announced a Special Session that will begin on July 18, 2017. Included in the 20 identified items that will be taken up in Special Session is preemption of local ordinances that ban using mobile devices beyond texting while driving. While H.B. 62 only preempts ordinances regulating texting while driving, cities should pay careful attention to the Special Session in the event preemption is broadened to include regulating all use of a wireless communication device. The Governor is targeting "a patchwork of regulations" across the state.

This bill is the result of a long battle fought by Representative Tom Craddick and many other traffic safety advocates. Four of the authors filed H.B. 80 last Session (2015), which did not pass in the Senate. In 2013, H.B. 63 also failed to pass in the Senate. In 2011, H.B. 242 passed both houses only to be vetoed by then Governor Rick Perry. Governor Abbott signed H.B. 62 on June 6, 2017 ending the effort to create a statewide ban of behavior that causes deaths on Texas roads. Just over two months prior to signing, a driver killed 13 people on March 29, 2017 when he crashed into a church bus in Uvalde County. Department of Public Safety records showed he was texting while driving.

H.B. 100

Subject: Regulating Transportation Network Companies

Effective: May 29, 2017

Transportation network companies (TNCs) utilize digital technology platforms to provide on-demand and highly automated private ride services. These services connect passengers with willing drivers who use their personal vehicles to provide rides. However, no consistent and predictable statewide regulation of TNCs exists in Texas, resulting in an inefficient and confusing patchwork of rules

across local jurisdictions. H.B. 100 establishes a uniform, rational statewide framework for regulating TNCs, enabling TNCs to help provide Texans with greater mobility options, earning opportunities, and increased public safety.

H.B. 100 adds Chapter 2402 (Transportation Network Companies) of the Occupations Code. Subchapter A (General Provisions) includes definitions, the nature of TNCs, drivers, and vehicles, and controlling authority.

Under Section 2402.003, the regulation of TNCs, drivers logged into a digital network, and vehicles used to provide digitally prearranged rides (1) is an exclusive power and function of state government and (2) may not be regulated by a municipality or other local entity. This includes by imposing a tax, requiring an additional license or permit, setting rates, or imposing other requirements. Chapter 2402 does not affect the ability of a local authority to take an action described by Section 542.202 of the Transportation Code (Powers of Local Authorities) or enforce a provision of Subtitle C, Title 7 of the Transportation Code (Rules of the Road) or any other state law relating to the operation of traffic on public roads. As of May 29, 2017, any municipality's ordinance or policy related to TNCs or drivers authorized to access a TNC's digital network is void and has no effect.

An airport owner or operator may impose regulations on a TNC that provides digitally prearranged rides to or from the airport. The governing body of a governmental entity with jurisdiction over a cruise ship terminal may also impose regulations on a TNC that provides digitally prearranged rides to or from the terminal. Those exceptions are limited.

Subchapter B (Permit Required) requires a permit for operating a TNC in Texas and provides for a fee.

Subchapter C (Operation of Transportation Network Companies) addresses, inter alia, insurance (the requirements of Chapter 1954 of the Insurance Code governing TNCs and drivers logged into a digital network), shared rides, fares, identification of drivers, electronic receipts, intoxicating substance policies, driver requirements, vehicle requirements, disorderly passengers, nondiscrimination, accessibility to disabled passengers, and agreements with local entities for large events.

Subchapter D (Records and Other Information) requires TNCs to maintain certain records and addresses collection, use, and disclosure of records and other company information as well as disclosure of passenger information. Section 2402.154 allows a municipality and a TNC to voluntarily enter into an agreement regarding sharing the company's data with the municipality.

Subchapter E (Enforcement) authorizes the Texas Department of Licensing and Regulation (TDLR) to suspend or revoke a permit issued to a TNC that violates a provision of Chapter 2402.

H.B. 561

Subject: Operating Package Delivery Vehicles

Effective: May 26, 2017

H.B. 561 adds Subchapter G (Package Delivery Vehicles) to Chapter 551 of the Transportation Code (Operation of Bicycles, Mopeds, and Play Vehicles). Section 551.452 provides for "Package Delivery"

license plates for vehicles operated for the purpose of picking up and delivering mail, parcels, and packages if the vehicle is an all-terrain vehicle, golf cart, neighborhood electric vehicle, recreational off-highway vehicle, or a utility vehicle. The vehicle must be equipped with head lamps, tail lamps, reflectors, a parking brake, and mirrors, in addition to any other equipment required by law.

Under Section 551.453, a motor carrier may operate, for the purpose of picking up or delivering mail, parcels, or packages, a vehicle bearing license plates issued under Section 551.452 on a public highway that is not an interstate or limited-access or controlled-access highway and that has a speed limit of not more than 35 miles per hour. Section 551.456 authorizes such vehicles to cross intersections, including on or through a road or street that has a speed limit of more than 35 miles per hour.

The Department of Motor Vehicles may not require registration of a vehicle operated under Subsection 551.452(a) unless the registration is required by other law.

Section 551.455 authorizes municipalities to allow a motor carrier to operate, for the purpose of picking up or delivering mail, parcels, or packages, a vehicle bearing license plates issued under Section 551.452 on all or part of a public highway that (1) is in the corporate boundaries of the municipality and (2) has a speed limit of not more than 35 miles per hour.

Section 551.454 authorizes property owners' associations to adopt reasonable safety and use rules for the operation of vehicles bearing package delivery license plates issued under Section 551.452.

Subchapter G controls in the case of a conflict between it and other law, including Chapters 502 and 663 of the Transportation Code.

H.B. 912/S.B. 848

Subject: Parent-Taught Driver Education Courses and Driving Safety Courses

Effective: June 15, 2017/June 9, 2017

Other than the effective date, H.B. 912 and S.B. 848 are identical bills. Both bills amend Section 1001.112 of the Education Code expanding the pool of individuals eligible to teach parent-taught driver education courses to include individuals designated by a parent, legal guardian, or a judge of a court with jurisdiction over the person on a form prescribed by the department, if they meet the following qualifications: are at least 25 years of age, do not charge a fee for conducting the course, have at least seven years of driving experience, and otherwise qualify to conduct a course under this section. Amended Section 1001.112 creates a seven-year limit on disqualification from conducting such courses for individuals convicted of driving while intoxicated and removes the disqualification of being disabled because of mental illness.

The bills also amend Sections 1001.055, 1001.056, 1001.206, and 1001.351 to provide for electronic issuance of certificates.

Amendments to Sections 1001.204, 1001.205, and 1001.206 remove the requirement that a driver education school or driving safety school have owners, instructors, and course providers respectively who are of good reputation and character.

H.B. 920**Subject: Operating All-Terrain Vehicles****Effective: September 1, 2017**

H.B. 920 amends Section 663.037 of the Transportation Code (Operating on Public Roadway Prohibited) requiring a triangular orange flag that is at least six feet above ground level attached to the back of an all-terrain vehicle driven on certain public roadways. This replaces the requirement of a triangular orange flag on top of an eight-foot-long pole.

Section 663.037, as amended, also authorizes persons other than just peace officers to operate an all-terrain vehicle on a public street, road, or highway that is not an interstate or limited-access highway. Additional person include law enforcement, firefighting, ambulance, medical, or other emergency services.

H.B. 1249**Subject: Criminal Offense of Operating a Motor Vehicle that Resembles an Emergency Medical Vehicle****Effective: September 1, 2017**

H.B. 1249 addresses concerns regarding the operation of vehicles purchased from an authorized emergency medical services (EMS) provider when the useful life of the vehicle has expired without the removal of the easily recognized identifying insignia, such as the star of life emblem and emergency lights, which can mislead a reasonable person as to the vehicle's purpose.

New Section 773.017 of the Health and Safety Code prohibits operating a motor vehicle that resembles an EMS vehicle unless the person uses the motor vehicle as an EMS vehicle under Chapter 773 or for other legitimate governmental functions including police or firefighting services. A violation of Section 773.017 is a Class C misdemeanor.

A motor vehicle resembles an emergency medical services vehicle if the motor vehicle has on the exterior of the motor vehicle any of the following markings or features: (1) the word "ambulance" or a derivation of that word; (2) a star of life as trademarked by the National Highway Traffic Safety Administration; (3) a Maltese cross commonly used by fire departments; (4) forward-facing flashing red, white, or blue lights; (5) a siren; (6) the words "critical care transport," "emergency," "emergency medical services," or "mobile intensive care unit"; or (7) the acronym "EMS" or "MICU."

Section 773.017 does not apply to a motor vehicle bearing a license plate issued or approved under Section 504.501 (Classic Motor Vehicles and Travel Trailers; Custom Vehicles; Street Rods) or 504.502 (Certain Exhibition Vehicles) of the Transportation Code.

H.B. 1372**Subject: Proper Use of Child Safety Seats Curriculum in Driver Education and Driving Safety Courses****Effective: September 1, 2017**

H.B. 1372 adds Section 1001.1091 to the Education Code adding proper use of child passenger safety seat systems to the curriculum of driver education and driving safety courses.

H.B. 1791

Subject: Use of Connected Braking Systems to Maintain Distance Between Vehicles

Effective: May 18, 2017

There is an increased use of connected braking technology by major truck fleets in the United States, whereby a convoy of two vehicles are linked together wirelessly so the rear vehicle can control its speed based on the behavior of the front vehicle, surrounding traffic, and weather conditions. Several state and federal agencies, research institutes, and private sector companies have participated in projects demonstrating how connected braking technology improves safe driving conditions for the vehicles using the technology as well as surrounding vehicles.

H.B. 1791 seeks to provide clarity in the law regarding the use of connected braking systems in Texas. H.B. 1791 amends Section 545.062 of the Transportation Code (Following Distance) permitting a vehicle equipped with a connected braking system to be assisted by the system to maintain an assured clear distance or sufficient space as required by this section. “Connected braking system” means a system by which the braking of one vehicle is electronically coordinated with the braking system of a following vehicle.

TMCEC: While not creating a new offense, H.B. 1791 does amend Section 545.062 which contains the traffic offense of following too closely.

H.B. 1793

Subject: Inspection of Certain Commercial Vehicles Not Domiciled in the State

Effective: May 26, 2017

Many Texas trucks and trailers registered as commercial motor vehicles are not domiciled in Texas, which forces those vehicles to travel long distances to obtain the required valid annual inspection. The expense of this obligation, especially considering driver wages and per diems, fuel, and the necessary downtime for the trucks and trailers, may be forcing some in the industry to register their fleets in states that have less burdensome registration and inspection requirements, resulting in a loss of revenue to the state.

H.B. 1793 amends Section 548.203 of the Transportation Code (Exemptions) exempting from the state’s compulsory annual inspection a commercial motor vehicle registered in this state or under the International Registration Plan as authorized by Section 502.091 of the Transportation Code that is not domiciled in this state and has been issued a certificate of inspection in compliance with federal motor carrier safety regulations.

Such vehicles are subject to any fees established by the Transportation Code that would apply to the vehicle if it were subject to the inspection requirements of Chapter 548, including a fee under Section 548.504 (Inspection of Commercial Motor Vehicle) or 548.5055 (Texas Emission Reduction Plan Fee).

H.B. 1823

Subject: Diacritical Marks in Vital Statistics, Driver's Licenses, and Personal Identification Certificates

Effective: September 1, 2017

H.B. 1823 adds Section 191.009 of the Health and Safety Code and Sections 521.127 and 522.030 of the Transportation Code. Each of these additions ensure that their respective departments (the Department of State Health Services and the Department of Public Safety) include any diacritical marks that appear in a person's name in vital statistics, driver's licenses, identification cards, commercial driver's licenses, and commercial driver's permits. The new sections define a diacritical mark as a mark used in Latin script to change the sound of a letter to which it is added or used to distinguish the meaning of the word in which the letter appears. The term includes accents, tildes, graves, umlauts, and cedillas.

TMCEC: These marks are used in German, Greek, Hebrew, Spanish, and many other languages. Such marks are critical to correct pronunciation and meaning. They may also be important in avoiding and detecting matters of false identification.

H.B. 1956

Subject: Operating Certain Off-Highway Vehicles

Effective: September 1, 2017

Over time, applicable statutes have resulted in confusion for both drivers and some law enforcement officers as to the proper operation of all-terrain vehicles, utility vehicles, and recreational off-highway vehicles. H.B. 1956 addresses this issue by providing for clarification with regard to the operation of these vehicles

H.B. 1956 amends Section 663.001 of the Transportation Code (Definitions) adding utility vehicle to the vehicles to which statutory provisions relating to the operation of certain off-highway vehicles apply.

The bill changes the heading to Subchapter B of Chapter 663 of the Transportation Code to Off-Highway (formerly All-Terrain) Vehicle Operator Education and Certification and makes conforming changes throughout that chapter.

H.B. 1956 repeals the following provisions of the Transportation Code: Section 551.401(2) (definition of utility vehicle in Subchapter F Golf Carts and Utility Vehicles), Section 663.001(1) (definition of all-terrain vehicle for the purposes of Chapter 663) as amended by Chapters 131 (S.B. 487) and 895 (H.B. 1044), Acts of the 83rd Legislature, Regular Session, 2013; and Section 663.003 (Recreational Off-Highway Vehicles).

H.B. 2319/S.B. 1102

Subject: Operation of Certain Overweight Vehicles on Highways and Intermodal Shipping Container Permit

Effective: June 9, 2017/June 1, 2017

Due to the increased weight of their fuel systems, natural gas trucks weigh more than comparable diesel trucks, sometimes weighing up to 2,000 pounds more. This means that full-load carriers operating natural

gas trucks often must reduce their loads. As a result, carriers operating natural gas trucks can experience revenue losses of up to two to three percent per load, and may not be able to carry some bulk loads that are carried in fixed load trailers that cannot be easily changed. To address this, Congress passed the FAST Act in December of 2015 to allow states to exempt the added weight of natural gas fuel tanks, up to 2,000 pounds from interstate weight limits.

In light of the FAST Act, many states have enacted legislation extending the exemption on both their interstate and local highways. S.B. 1102 and Section 1 of H.B. 2319 are identical, with the exception of the effective date. (The rest of the sections in H.B. 2319 are not found in S.B. 1102.) Section 1 of H.B. 2319 and S.B. 1102 add Subsection 621.101(b-1) of the Transportation Code, authorizing a vehicle or combination of vehicles powered by an engine fueled primarily by natural gas to exceed any weight limitation under this section by an amount equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system. However, such a vehicle or combination of vehicles may not exceed 82,000 pounds. (Notably, Section 621.101 of the Transportation Code is the offense of operating an overweight vehicle.)

H.B. 2319 also adds Section 623.0172 of the Transportation Code requiring the Texas Department of Motor Vehicles (DMV) to issue a permit for a sealed intermodal shipping container moving by a truck-tractor and semitrailer combination that has six total axles and is equipped with a roll stability support safety system and truck blind spot systems. Among other requirements, the gross weight of the combination may not exceed 93,000 pounds. The DMV shall restrict vehicles operating under this permit to certain routes. The permit does not authorize operation on certain roads or bridges or transportation of hazardous material.

The DMV shall initially set the fee for a permit in an amount not to exceed \$2,000 and beginning in 2022, on September 1 of each even-numbered year, set the fee based on certain estimates. Beginning in 2022, The Texas Department of Transportation shall conduct a study concerning vehicles operating under this permit.

TMCEC: See also, S.B. 1524 for a similar permit in new Section 623.402 of the Transportation Code. Both bills create an annual permit for sealed intermodal shipping containers moving in international transportation by a truck-tractor and semitrailer combination that has six total axles (among many other specifications). H.B. 2319 does so by adding Subsection 623.0172(b) of the Transportation Code. S.B. 1524 does so by adding Subsection 623.402(a) of the Transportation Code. Those provisions are identical. S.B. 1524 also authorizes the DMV to issue a permit for intermodal shipping containers with a combination that has seven total axles in Subsection 623.402(b).

S.B. 1524 authorizes the DMV to issue a permit whereas H.B. 2319 requires the DMV to issue it (“may” vs. “shall” respectively).

Unlike S.B. 1524, H.B. 2319 lacks preemption language. S.B. 1524 prohibits the governing body of a municipality from regulating based on weight the movement and operation on a state highway or county or municipal road of a combination of vehicles operating under a permit issued under new Section 623.402 of the Transportation. H.B. 2319 lacks such language.

The fee varies between the bills. H.B. 2319 requires the DMV to initially set the fee for a permit under Section 623.0172 in an amount not to exceed \$2,000 (to be reevaluated in even numbered years beginning in 2022). S.B. 1524 requires a fee of \$6,000 to accompany an application for a permit under Subsections

623.402(a) or (b). Each bill requires a different allocation of the fee and directs the allocation to different funds (H.B. 2319 requires 90 percent of the fee collected to be deposited to the state highway fund, five percent to the DMV fund, and five percent to the appropriate county road and bridge fund; S.B. 1524 requires 50 percent of the fee to be deposited to the state highway fund, 30 percent to be equally divided among and distributed to each county designated in the permit application, 16 percent to be equally divided among and distributed to each municipality designated in the permit application, and four percent to be deposited to the Texas Department of Motor Vehicles fund.)

There are also variances between the bills regarding route restrictions. Additionally, S.B. 1524 provides for a permit sticker and related Class C misdemeanor, whereas H.B. 2319 does not.

Time will tell whether these bills will be construed to create three different permits (one under each of Subsection 623.0172(b), 623.402(a), and 623.402(b)) or if Subsections 623.0172(b) and 623.402(a) will be construed as the same permit. To make things more interesting, H.B. 2319 took effect on June 9, 2017. S.B. 1524 takes effect on January 1, 2018. H.B. 2319 passed last in time.

H.B. 2501

Subject: Insurance Requirements for Certain Nonemergency Medical Transportation

Effective: September 1, 2017

Non-Emergency Medical Transportation (NEMT) providers bring patients to routine and follow-up medical appointments, improving patient outcomes and lowering healthcare costs. These companies are increasingly using a rideshare model or have announced partnerships with Uber, Lyft, and similar companies. The problem is that current law inhibits NEMT providers from securing needed automobile insurance to operate in Texas if those providers use a rideshare model.

In 2015, the 84th Legislature passed H.B. 1733 to clarify insurance responsibilities for transportation network companies (TNC) and their drivers. That bill established insurance coverage requirements during certain “gap periods” where a driver was not yet carrying a passenger, but was waiting for a passenger request. However, the bill’s definition of “transportation network company” was written in a way that excludes NEMT providers, which has made it difficult for some providers to secure required auto insurance.

H.B. 2501 amends Section 1954.002 of the Insurance Code making Chapter 1954 (Insurance for Transportation Network Company Drivers) inapplicable to entities arranging nonemergency medical transportation unless they connect riders and drivers through a digital network, contract individually with each driver, and otherwise meet all requirements under the Medicaid or Medicare program for delivery of nonemergency medical transportation services.

H.B. 2812

Subject: Use of Certain Lighting Equipment on Security Patrol Vehicles

Effective: September 1, 2018

Motorists must be able to differentiate between law enforcement vehicles and vehicles used by private security entities. Sometimes lighting equipment makes this difficult.

H.B. 2812 amends a Class C misdemeanor offense, Section 547.305 of the Transportation Code (Restrictions on Use of Lights). Section 547.305 providing that a security patrol vehicle may only be equipped with

green, amber, or white lights. The bill defines “security patrol vehicle” and clarifies that a motor vehicle is equipped with a lamp or illuminating device under Section 547.305 regardless whether the lamp or illuminating device is attached to the motor vehicle temporarily or permanently or activated.

H.B. 2968

Subject: Golf Carts or Utility Vehicles on Public Highways in Certain Counties

Effective: May 26, 2017

H.B. 2968 amends Section 551.404 of the Transportation Code increasing the population size (less than 37,000 instead of 30,000) of an otherwise qualified county in which a commissioners court may allow an operator to use a golf cart or utility vehicle on the public highway. It also adds any peninsula that borders the Gulf of Mexico that otherwise meets the qualifications.

H.B. 3050

Subject: Driver’s and Learner Licenses

Effective: September 1, 2017

H.B. 3050 addresses various issues currently experienced by the Department of Public Safety (DPS). The bill cleans up several provisions of the Transportation Code to reflect the newer term “learner license” rather than the old term “instructional permit.” Previous legislative sessions have changed the term, but did not update all parts of the code.

Section 2 amends Section 521.009 of the Transportation Code permitting the governing body of a municipality to enter into an agreement with DPS to permit municipal employees to provide services at a municipal office relating to the issuance of renewal and duplicate driver’s licenses, election identification certificates, and personal identification certificates. A participating municipality must remit applicable fees to DPS.

Section 5 amends Section 521.1211 of the Transportation Code (Driver’s License for Peace Officer) allowing federal special investigators who live in Texas to use an alternative approved address in the county in which they work, rather than their residence address, on a driver’s license.

H.B. 3051

Subject: Categories Used to Record Race and Ethnicity of Persons Stopped for or Convicted of Traffic Offenses

Effective: September 1, 2017

Currently, Texas law does not conform to national standards for reporting race and ethnicity when the data is exchanged, stored, retrieved, or analyzed in electronic form.

H.B. 3051 amends Article 2.132 of the Code of Criminal Procedure (Law Enforcement Policy on Racial Profiling) to conform to the national standards and lists race and ethnicity as five categories under Subsection (a)(3): Alaska native or American Indian; Asian or Pacific Islander; black; white; and Hispanic or Latino.

The bill also amends Section 543.202 of the Transportation Code (relating to required conviction records kept by courts) to list race and ethnicity as the same five categories.

H.B. 3087

Subject: Definitions of Highway Maintenance and Service Vehicles

Effective: September 1, 2017

H.B. 3087 amends Section 547.001 of the Transportation Code (Definitions for purposes of Chapter 547, Vehicle Equipment) adding “highway maintenance vehicle” and “service vehicle.” The bill changes the heading of Section 547.105 to Maintenance and Service Vehicle (instead of Equipment) Lighting Standards and expands the type of equipment for which the Texas Department of Transportation adopts lighting standards and specifications from highway maintenance equipment to highway or traffic maintenance vehicles, which include such equipment, and service vehicles and makes that expansion applicable to the prohibition against operating equipment that is not equipped with lamps or does not display the required lighted lamps.

TMCEC: A violation of Chapter 547 of the Transportation Code is a Class C misdemeanor. The general penalty provision is Section 547.004.

H.B. 3254

Subject: Enforcement of Motor Carrier Regulations

Effective: January 1, 2018

The Department of Motor Vehicles (DMV) needs additional authority in regulating motor carriers and enforcing that regulation, including authority to deny a motor carrier registration to a carrier that changes names or operates under various aliases to continue operations without remedying previous penalties or sanctions, which are often related to safety. H.B. 3254 expands such authority.

H.B. 3254 amends Section 645.004 of the Transportation Code, the Class C misdemeanor for violating a rule adopted under Chapter 645, making it an offense to fail to register as required by the unified carrier registration plan and agreement or fail to submit information and documents as required by the unified carrier registration plan and agreement.

The bill amends Section 643.054 of the Transportation Code allowing the DMV to deny a registration if the applicant is owned, operated, managed, or otherwise controlled by or affiliated with a person that the Department of Public Safety has determined has an unsatisfactory safety rating under applicable federal regulations or has multiple violations of commercial motor vehicle safety standards or rules of the road. The bill authorizes the DMV to deny a supplement to a motor carrier’s application for registration if the motor carrier has unpaid administrative penalties assessed under statutory provisions relating to motor carrier registration or vehicle size and weight.

Section 643.058 of the Transportation Code as amended prohibits a motor carrier from renewing a registration that has been expired for more than 180 days but authorizes the motor carrier to obtain a new registration by complying with the requirements and procedures for obtaining an original registration.

As amended, Section 643.153 of the Transportation Code replaces the requirement for a motor carrier that is required to register and that transports household goods for compensation to file a tariff with the DMV that establishes maximum charges for transportation between two or more municipalities with the requirement for such a motor carrier to file a tariff that establishes maximum charges for all transportation services.

The amendment to Section 644.151 of the Transportation Code makes it a Class A misdemeanor to knowingly operate a commercial motor vehicle in violation of an out-of-service order issued under 49 C.F.R. Section 385.13(d)(1) or owns, leases, or assigns a person to drive a commercial motor vehicle that is knowingly operated in violation of an out-of-service order issued under 49 C.F.R. Section 385.13(d)(1). The offense is a state jail felony or a second degree felony if it is shown at trial that the vehicle caused bodily injury or death respectively.

H.B. 3272

Subject: Suspension, Revocation, or Cancellation of a Driver's License or Personal Identification Certificate

Effective: September 1, 2017

H.B. 3272 amends Section 521.292 of the Transportation Code (Department's Determination for License Suspension) allowing an action against any driver under 18 years of age, not just those with a provisional license. This makes all minors who hold a driver's license subject to suspension for two or more moving violations committed within a 12-month period.

The bill also amends Section 521.294 of the Transportation Code (Department's Determination for License Revocation) removing the requirement that the Department of Public Safety (DPS) revoke a person's license if the person has been reported by a court under Section 521.3452 for failure to appear or has been reported within the preceding two years by a justice or municipal court for failure to appear or for a default in payment of a fine (for persons age 14 to 16 when the offense was committed).

H.B. 3272 amends Section 521.300 of the Transportation Code providing for a hearing under Subchapter N of Chapter 521 (General Provisions Relating to License Denial, Suspension, or Revocation) to be conducted by telephone or video conference call if the presiding officer provides notice to the affected parties.

Amended Section 521.314 of the Transportation Code authorizes DPS to cancel a license or certificate if the holder paid the required fee for the license or certificate by check or credit card that was returned to DPS or not honored by the funding institution or credit card company due to insufficient funds, a closed account, or any other reason.

TMCEC: This bill also amends Article 45.050 of the Code of Criminal Procedure (Failure to Pay Fine; Failure to Appear; Contempt: Juveniles) prohibiting confinement of a juvenile for failure to appear.

H.B. 3654

Subject: Definition of Road Machinery for Purposes of Certain Provisions Governing Vehicle Equipment

Effective: September 1, 2017

State law governing vehicle equipment in relation to the rules of the road applies to road machinery, but that this type of apparatus is not clearly defined.

H.B. 3654 amends Section 547.001 of the Transportation Code defining "road machinery" for purposes of Chapter 547 (Vehicle Equipment). Road machinery means a self-propelled vehicle that was originally and

permanently designed as machinery, is not designed or used primarily to transport persons or property, and is only incidentally operated on a highway.

S.B. 312

Subject: Toll-Related Offenses; Sign Height and Spacing Requirements; Garage or Repair Shop Ordinances

Effective: September 1, 2017

S.B. 312 enacts the Sunset Advisory Commission's recommendations regarding the Texas Department of Transportation (TxDOT). Sunset recommended continuing TxDOT for 12 years along with several other statutory modifications that are contained in this legislation.

TMCEC: The following provisions of S.B. 12 are most notable for city attorneys and municipal courts.

Toll-Related Offenses:

S.B. 312 affects toll-related offenses, amending Section 228.054 of the Transportation Code (Class C misdemeanor for failing or refusing to pay a toll) deleting the reference to Section 228.0545 and changes the heading of both sections, Section 228.054 to Toll Payment Required; Emergency Vehicles Exempt and Section 228.0545 to Toll Not Paid at Time of Use; Invoice). TxDOT may provide the invoice under Section 228.0545 by first class mail or as an electronic record (if a registered owner agrees to it).

S.B. 312 creates a new offense for failing to pay the toll invoice, Section 228.0547, a misdemeanor punishable by \$250. A person may not be convicted of more than one offense under this section in a 12-month period. The court in which the person is convicted shall collect the unpaid tolls and administrative fees and forward the amounts to TxDOT. The person convicted is also liable for court costs under the statute. The bill makes the presumptions, evidence, and defense provisions in Section 228.056 applicable to the offense in Section 228.0547.

S.B. 312 removes the offense in Section 228.059 (Failure to Pay State Highway Toll or Administrative Fee imposed by Other Entity). Note that the changes in law regarding toll collection procedures and billing apply only to a toll incurred on or after March 1, 2018.

Sign Height and Spacing:

The bill also affects sign height requirements, adding Section 391.038 of the Transportation Code restricting the height of signs existing on March 1, 2017 that were erected before that date to 85 feet, excluding a cutout that extends above the rectangular border of the sign measured from either the grade level of the centerline of the main-traveled way or if the main-traveled way is below grade, from the base of the sign structure. Under the statute, a person may rebuild a sign existing on March 1, 2017 that was erected before that date without obtaining a new or amended permit from TxDOT as long as it is rebuilt in the same location and at a height that does not exceed the height of the sign on that date.

New Section 391.039 of the Transportation Code prohibits TxDOT from requiring an electronic sign owned by a municipality with a population of more than 200,000 located in a county on the Texas-Mexico border with a population of less than 300,000 to be more than 500 feet from another sign.

Garage or Repair Shop Ordinances

S.B. 312 amends Section 550.067 of the Transportation Code (Municipal Authority to Require Accident Reports) authorizing a municipality to require the person in charge of certain garages or repair shops if a vehicle shows evidence of having been involved in an accident described by Section 550.062(a) (relating to a law enforcement officer's accident report), rather than an accident requiring a report to be filed under Section 550.061 (Operator's Accident Report) or 550.062 (Officer's Accident Report) to report the damage to certain entities.

S.B. 1187

Subject: Operating a Motor Vehicle Without Financial Responsibility

Effective: June 1, 2017

Texas law requires all drivers to maintain automobile insurance and to show proof of financial responsibility when requested by an officer during a traffic stop. In some instances, even though a driver has insurance and the officer has knowledge that the driver or automobile is in fact insured, a citation will be issued to the driver. In Texas, most patrol cars used by law enforcement have the ability to determine whether or not an automobile has the required level of liability insurance. During a traffic stop, officers routinely are able to run an automobile's license plate or vehicle identification number to confirm this information through the TexasSure Vehicle Insurance Verification Program.

S.B. 1187 amends Section 601.053 of the Transportation Code (Evidence of Financial Responsibility) prohibiting an officer from issuing a citation for an offense under Section 601.191 (Operation of Motor Vehicle in Violation of Motor Vehicle Liability Insurance Requirement; Offense) unless the officer attempts to verify through the verification program that financial responsibility has been established for the vehicle and is unable to make that verification.

The bill also amends Section 601.191 requiring a citation issued for an offense under that section to include an affirmative indication that the peace officer was unable at the time of the alleged offense to verify financial responsibility for the vehicle through the verification program established under Subchapter N (Financial Responsibility Verification Program) of Chapter 601.

S.B. 1187 amends Section 708.103 of the Transportation Code, adding Subsection (a-1), which prohibits the Department of Public Safety from assessing a surcharge on the license of a person based on an offense under Section 601.191 if the person proves to DPS under Subsection 601.231(b) that the person had financial responsibility at the time the offense was alleged to have occurred.

TMCEC: Contact your local print shop or electronic citation software provider and add this to the laundry list of requirements for the citation. So far, implemented practices for an affirmative indication include a check box or a written statement or notation by the officer. This bill caused unexpected panic among some jurisdictions. To be clear, this bill does not affect the jurisdiction of the court, filing a complaint, or the offense itself. It does not require a dismissal if a citation that lacks the required affirmative indication is filed in a court.

This bill makes sense. TexasSure, the vehicle insurance verification database, has been available to law enforcement statewide since 2008. Now they are required to use it, resulting in fewer citations filed for operating a motor vehicle in violation of Section 601.051 when there was no violation.

S.B. 1501**Subject: Regulation, Licensing, and Enforcement of Motor Vehicle Towing, Booting, and Storage****Effective: June 15, 2017, except Sections 7, 10, and 20(b) take effect September 1, 2018**

A recent strategic planning process undertaken by the Texas Department of Licensing and Regulation indicated that certain regulations and licensing requirements involving vehicle towing, booting, and storage could be eliminated without endangering public health, safety, or welfare. S.B. 1501 seeks to remove some of these regulations and revise certain authority to conduct booting and towing activities.

S.B. 1501 amends Section 2308.2085 of the Occupations Code expressly authorizing a local authority to regulate, in areas in which the entity regulates parking or traffic, booting activities, including operation of booting companies and operators that operate on a parking facility, any permit and sign requirements in connection with the booting of a vehicle, and fees that may be charged in connection with the booting of a vehicle.

Regulations adopted under Section 2308.2085 must incorporate the requirements of Sections 2308.257 (Booting of Unauthorized Vehicle) and new 2308.258 (Boot Removal), include procedures for vehicle owners and operators to file a complaint with the local authority regarding a booting company or operator, and provide for the imposition of a penalty on a booting company or operator for a violation of new Section 2308.258.

The bill defines “local authority” as a state or local governmental entity authorized to regulate traffic or parking (Section 2308.002).

Section 2308.151 authorizes a person to perform booting operations and operate a booting company unless the person is prohibited by a local authority under Section 2308.2085, removing the requirement of a license.

In certain counties, the addition of Section 2308.210 authorizes possible punishment by a fine not less than \$1 or more than \$200 for a towing company or operator that violates a provision of an order by a commissioners court establishing a program under that section.

Added Section 2308.258 requires a booting company responsible for the installation of a boot on a vehicle to remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot. That section also requires the booting company to waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the company fails to remove it within that time. If the booting company installed more than one boot on a vehicle, it is prohibited by this section from charging a total amount for the removal of the boots that is greater than the amount of the fee for the removal of a single boot.

S.B. 1523**Subject: Creation of the State Safety Oversight Program for Rail Fixed Guideway Public Transportation Systems****Effective: June 1, 2017**

In 1996, the Federal Transit Administration established the State Safety Oversight (SSO) program, which oversees rail fixed guideway public transportation systems. As a result, an eligible state must obtain

statutory authority for its SSO program and designate a state agency to oversee and enforce safety at rail fixed guideway public transportation systems in its jurisdiction from engineering, construction, and revenue operations. In 1997, the Texas Legislature designated the Texas Department of Transportation (TxDOT) as the SSO agency.

S.B. 1523 puts Texas in line with federal SSO requirements.

The bill designates Sections 455.001 through 455.004 of the Transportation Code as Subchapter A (General Powers and Duties) and adds Subchapter B (State Safety Oversight Program) to detail the requirements, responsibilities, and procedures of TxDOT regarding rail fixed guideway public transportation systems.

S.B. 1524

Subject: Vehicles Transporting Intermodal Shipping Containers

Effective: January 1, 2018

S.B. 1524 adds Subchapter U (Intermodal Shipping Containers) to Chapter 623 of the Transportation Code (Permits for Oversize or Overweight Vehicles). Added Section 623.401 defines “intermodal shipping container” and new Section 623.402 authorizes the Department of Motor Vehicles (DMV) to issue an annual permit for movement of a sealed intermodal shipping container under two different sets of circumstances and conditions found in Subsections (a) and (b). Added Section 623.404 provides for a permit fee of \$6,000.

Subchapter U also addresses route restrictions, designation of movement, permit conditions, a permit sticker, and permit and weight record documents. Section 623.409 creates a Class C misdemeanor for failing to display the sticker described by Section 623.407(a) in the manner required by that section, failing to carry a permit issued under Subchapter U, or failing to carry or present a weight record as required by Section 623.408(b).

S.B. 1524 amends Section 623.019 of the Transportation Code expressly giving jurisdiction of any offense under that section to a justice or municipal court (removing the restriction that the municipal court only had jurisdiction if the fine did not exceed \$500).

Amended Section 621.303 of the Transportation Code prohibits municipalities from regulating, because of weight, the movement and operation of a combination of vehicles operating under a permit issued under new Section 623.402 on a state highway or county or municipal road.

S.B. 1524 amends Section 550.062 of the Transportation Code (Officer’s Accident Report) requiring the officer’s accident report to include the weight and number of axles of the vehicle combination if the accident involved a combination of vehicles operating under a permit issued under new Section 623.402.

The bill adds Section 623.070 of the Transportation Code, providing that Subchapter D of Chapter 623 (Heavy Equipment) does not apply to the transportation of an intermodal shipping container as defined by Section 623.401, regardless whether the container is sealed or unsealed.

TMCEC: See also, H.B. 2319. That bill requires the DMV to issue an annual permit for the international transportation of an intermodal shipping container that meets certain specifications. See the commentary for H.B. 2319 for a comparison of permits.

S.B. 2006**Subject: Erecting and Maintaining Certain Outdoor Signs Regulated by the Texas Department of Transportation****Effective: June 15, 2017**

S.B. 2006 amends provisions in Chapters 391 (Highway Beautification on Interstate and Primary Systems and Certain Roads) and 394 (Regulations of Outdoor Signs on Rural Roads) of the Transportation Code replacing the phrase “outdoor advertising” with “commercial signs.” Added Subsection 391.031(b-1) provides that a person does not commit an offense (Class C misdemeanor) under Section 391.031 if the person holds a permit issued by the Texas Department of Transportation and erects or maintains a commercial sign located within 660 feet of the nearest edge of a right-of-way in an area in which the land use is designated industrial or commercial under authority of law or is not designated industrial or commercial under authority of law, but the land use is consistent with an area designated industrial or commercial.

The bill amends the Class C misdemeanor in Section 391.061 changing the type of sign prohibited in that section from outdoor advertising to a commercial sign. Likewise, the type of sign prohibited in the Class C misdemeanor in Section 391.067 is now a commercial sign instead of “outdoor advertising.”

TMCEC: It has been two years since the U.S. Supreme Court in *Reed v. Town of Gilbert*, which addressed when municipalities may impose content-based restrictions on signage. The case also addressed the level of constitutional scrutiny that should be applied to content-based restrictions on speech. The case has had broad implications in appellate decisions throughout the nation, including here in Texas. This bill attempts to resolve free speech conflicts in the Texas Highway Beautification Act. The 3rd Court of Appeals, in *Auspro Enters., LP v. Tex. DOT*, 2016 Tex. App. LEXIS 9469 (Tex. App.—Austin August 26, 2016, pet. filed), found sections contained in Subchapter B (Regulation of Outdoor Advertising Generally) and Subchapter C (License and Permit for Outdoor Advertising) unconstitutional. According to the court, the plain language of the HBA defines “outdoor advertising” so broadly that the Act’s restrictions on speech apply to both commercial and noncommercial speech. Both subchapters contain Class C misdemeanors under which each day is a separate offense. This opinion severed all of the content-based provisions, including Section 391.031(b) (Unlawful Outdoor Advertising; Offense) (punishable by fine of \$500 - \$1,000) Section 391.037 (Outdoor Advertising by Certain County Agriculture Fairs), Section 391.061(c) (Outdoor Advertising Without License; Offense) (punishable by fine of \$500 - \$1,000), and Section 391.070 (Exceptions for Certain Nonprofit Organizations). See, Ryan Kellus Turner and Regan Metteauer, “Case Law and Attorney General Opinion Update,” *The Recorder* (December 2016) at 9.

No state billboard regulations would be problematic, especially because some of the federal highway money the state receives is contingent on having effective regulations over outdoor advertising. S.B. 2006 maintains the current scope of billboard regulation in Texas while resolving any free speech conflicts by shifting the regulatory focus away from a sign’s content and instead focuses on whether or not a sign is leased, and therefore, being used for commercial purposes.

S.B. 2075**Subject: Vehicle Registration****Effective: September 1, 2017**

S.B. 2075 contains recommendations from the Department of Motor Vehicles (DMV) regarding vehicle

registration, including provisions related to fees and the process for when a closed county tax assessor collector's office's transactions can be performed by a different county.

The bill amends Section 502.057 of the Transportation Code (Registration Receipt) providing that a receipt for the renewed registration of a vehicle generated by an online registration system approved by the DMV is proof of the vehicle's registration until the 31st day after the date of renewal on the receipt.

Amended Section 504.202 (Veterans' with Disabilities) allows veterans to register a motor home even if it has a gross vehicle weight of more than 18,000 pounds.

S.B. 2205

Subject: Automated Motor Vehicles

Effective: September 1, 2017

S.B. 2205 creates Subchapter J (Operation of Automated Motor Vehicles) in Chapter 545 of the Transportation Code, adding a new vehicle classification: automated motor vehicle or automated driving system. Section 545.451 defines an automated driving system as hardware and software that, when installed on a motor vehicle and engaged, are collectively capable of performing, without any intervention or supervision by a human operator (1) all aspects of the entire dynamic driving task for the vehicle on a sustained basis, and (2) any fallback maneuvers necessary to respond to a failure of the system. An automated motor vehicle means a motor vehicle on which an automated driving system is installed.

Section 545.452 provides that automated motor vehicles and automated driving systems are exclusively governed by Subchapter J, expressly prohibiting political subdivisions and state agencies from imposing a franchise or other regulation related to the operation of an automated motor vehicle or automated driving system.

Section 545.453 provides that a licensed human operator is not required to operate a motor vehicle in an automated driving system installed on the vehicle is engaged. Also, when such a system is engaged, the owner of the system is considered the operator solely for the purpose of assessing compliance with applicable traffic or motor vehicle laws, regardless of whether the person is physically present in the vehicle while it is operating.

The bill authorizes an automated motor vehicle to operate in the state regardless whether a human operator is physically present, but may not operate on a highway (with or without a human) unless the vehicle is capable of operating in compliance with applicable traffic and motor vehicle laws, is equipped with a recording device installed by the manufacturer, complies with applicable federal law and federal motor vehicle standards, is registered and titled by law, and is covered by insurance (Section 545.454).

Under Section 545.455, in the event of an accident, the automated motor vehicle or any human operator shall comply with Chapter 550 (Accidents and Accident Reports) of the Transportation Code.

TMCEC: Ponder the implications of Section 545.453 on the enforcement of criminal traffic laws. Does this change everything? The future presents interesting questions and possibilities.

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ORDINANCE NO. 2018-25

AN ORDINANCE AMENDING THE CODE OF ORDINANCES CODIFIED AS CHAPTER 90 - MUNICIPAL COURT; PROVIDING FOR A MUNICIPAL COURT BUILDING SECURITY FUND; PROVIDING FOR ASSESSMENT AND COLLECTION OF A MUNICIPAL COURT BUILDING SECURITY FEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE City Commission of the CITY OF WESLACO TEXAS:

SECTION 1: That Chapter 90 of the Code of Ordinances Codified as “Municipal Court” is hereby amended to add Section 90.9 to be known as “Municipal Court Building Security Fee” of the Code of Ordinances, of Weslaco, Texas to read as follows:

A. Municipal Court Building Security Fund.

1. There is hereby created and established a Municipal Court Building Security Fund (the “Fund”) pursuant to Article 102.017 of the Code of Criminal Procedure.

2. The Municipal Court of the City of Weslaco, Texas is hereby authorized and required to assess a Municipal Court Building Security Fee (the “Fee”) in the amount of \$3.00 against all Defendants convicted of a misdemeanor offense by the Municipal Court. Each misdemeanor conviction shall be subject to a separate assessment of the Fee.

3. A person is considered to have been convicted in a case if:

- ☐ judgment, sentence, or both are imposed on the person;
- ☐ the person is placed on deferred disposition; or
- ☐ the Court defers final disposition or imposition of the judgment and sentence.

4. The Fee shall be collected on convictions for offenses committed on or after this ordinance is adopted.

5. The Municipal Court Clerk is hereby authorized and required to collect the Fee and to pay same to the treasury of the City of Weslaco, Texas. All Fees so collected and paid over to the treasury of the City of Weslaco, Texas shall be segregated in the Fund.

6. The Fund shall be used only for the purpose of financing the purchase of security devices and/or services for the building or buildings housing the Municipal Court of the City of Weslaco, Texas. “Security devices and/or services” shall include any and all items described in Article 102.017(d-1) of the Code of Criminal Procedure.

7. The Fund shall be administered by or under the direction of the City Council of the City of Weslaco, Texas. *Fee may only be assessed and collected on offenses occurring on or after August

28, 1995. The Fee may not be assessed or collected retroactively if the Fund is established at a later date than August 28, 1995.

SECTION 2: If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid (for any reason unenforceable), the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Weslaco, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

SECTION 3: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 4: This ordinance shall be published and become effective in accordance with state law.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 21st day of August 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this _____ day of _____, 2018.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1894	
From:			
Subject: Discussion and consideration to approve the purchase of computers using BuyBoard contract as budgeted in an amount not to exceed \$35,000.00 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Information Technology.)			
Background: Pricing was obtained from two city authorized vendors, PCMG and Southern Computer Warehouse, using the Texas BuyBoard state contract. Based on pricing received for computer model, DELL Optiplex 3050 Small Form Factor i5-7500 16GB RAM 128GB SSD and 24-inch DELL monitor, the City of Weslaco will purchase forty-one computers and monitors. PCMG provided the lowest quote for forty-one computers and monitors.			
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):			
Leo Gonzales		Created/Initiated	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends the purchase of computer hardware in the amount not to exceed the approved budgeted amount of \$35,000 from PCMG.			
Attachments, if any: PCMGPCQuote2018, Scw_Quote_100117003			
Responsibilities upon Approval:			



PCMG Inc.
13755 Sunrise Valley Drive, Suite 750 - Herndon, VA 20171

Duns #: 12-936-5420
Tax ID #: 33-0964088
HP Location ID-WSCA: 10041922

Maikol Garay
Sales Supervisor
T: (800) 625-5468 x38553
F: (310) 630-6853
Maikol.Garay@pcmg.com

Quotes are valid 15 days from quote date. Prices are subject to change without notice.

CITY OF WESLACO
ATTN: ACCOUNTS PAYABLE
255 SOUTH KANSAS
WESLACO, TX 78596

Contact: CITY OF WESLACO
Ref.: DELL
Quote: B0923564
Date: 8/9/2018
Expires: 8/24/2018

Line	Qty.	Manufacturer	PCMG No.	MFR Part Number	Product Description	Contract Number	Unit Price	Extended Price
1	41	KINGSTON	15760755		8GB DDR4 2400MHZ MODULE MEM	Buyboard 498-15	\$ 82.00	\$ 3,362.00
2	41	DELL	17739697		24 MONITOR - E2418HN	Buyboard 498-15	\$ 117.00	\$ 4,797.00
3	41	DELL	15840892		OPTIPLEX 3050 SFF I5-7500 8GB SYST128GB	Buyboard 498-15	\$ 642.00	\$ 26,322.00

Courier: UPS GROUND

Ship-to: ATTN: ACCOUNTS PAYABLE
255 SOUTH KANSAS
WESLACO, TX 78596

Sub-total	\$	34,481.00
Tax	\$	-
Shipping	\$	-
Total	\$	34,481.00

Ask about our leasing Options and keep your business moving forward		
Lease Estimate (Monthly Rates)*		
	Fair Market Value	\$1 Buyout
24 Months	\$1,380.96	\$1,559.33
36 Months	\$987.47	\$1,064.53
48 Months	\$794.44	\$841.61

Lease rate subject to credit approval. Special programs available for 100% software leases.

ORDERING INSTRUCTIONS / SPECIAL NOTES

Please make your purchase order out to 'PCMG, Inc.' (i.e. *not* 'PCM', 'PC Mall', or 'Macmall').
P.O. must include the quote number (i.e. S123456), part numbers, a signature, and payment terms (Net 30).
Please *e-mail* (maikol.garay@pcmg.com) or fax (310-630-6853) purchase order to 'Attn: Maikol Garay'. E-mail is preferred.
Software licenses: purchase orders must include an *e-mail address* and an end-user name, or order may be delayed.

PLEASE REMIT PAYMENT TO:
PCMG, Inc.
File 55327
Los Angeles, CA 90074-5327

Quote # 100117003 - Dell OptiPlex 3050 Desktop Computer
Cust #: CO7397 (City of Weslaco TX)
Quote Date: Aug 7, 2018

Sold to:	Ship to:
Accounts Payable City of Weslaco TX 255 S Kansas Weslaco, Texas, 78596 T: 956-968-6253 jsalas@weslacotx.gov	REF PO City of Weslaco TX 255 S Kansas Weslaco, Texas, 78596 T: 000-000-0000 jsalas@weslacotx.gov
	Shipping Method:Free Shipping

Notes: Buyboard 498-15

#	Products	SKU	Price	Qty	Subtotal
1	Dell E2418HN 23.8" WLED LCD Monitor - 16:9 - 5 ms - 1920 x 1080 - 16.7 Million Colors - 250 Nit - 1,000:1 - Full HD - HDMI - VGA - 25 W - TCO Certified Displays, EPEAT Gold, CECP, China Energy Label (CEL), RoHS, TÜV Rheinland E2418HN	DEL-DELL-E2418HN	\$117.59	41	\$4,821.19
2	Dell OptiPlex 3050 Desktop Computer - Intel Core i5 (7th Gen) i5-7500 3.40 GHz - 8 GB DDR4 SDRAM - 256 GB SSD - Windows 10 Pro 64-bit (English/French/Spanish) - Small Form Factor - DVD-Writer DVD-R/RW - Intel HD Graphics 630 Graphics - English Keyboard - HDMI - 8 x Total USB Port(s)	DEL-99K5T	\$647.75	41	\$26,557.75
3	Kingston 8GB DDR4 SDRAM Memory Module - 8 GB - DDR4 SDRAM - 2400 MHz	KIN-KCP424NS8/8	\$82.64	41	\$3,388.24

Subtotal: \$34,767.18
Tax: \$0.00
Grand Total (Incl. Tax): \$34,767.18

Thank you for your order. We value your business and will continue to provide you excellent service in addition to our comprehensive product line. All returns must be authorized and clearly marked with a valid RMA number. Returns are subject to restock fees when applicable.

Quotes are valid for 30-days unless otherwise noted.



Standardized Agenda Request Form

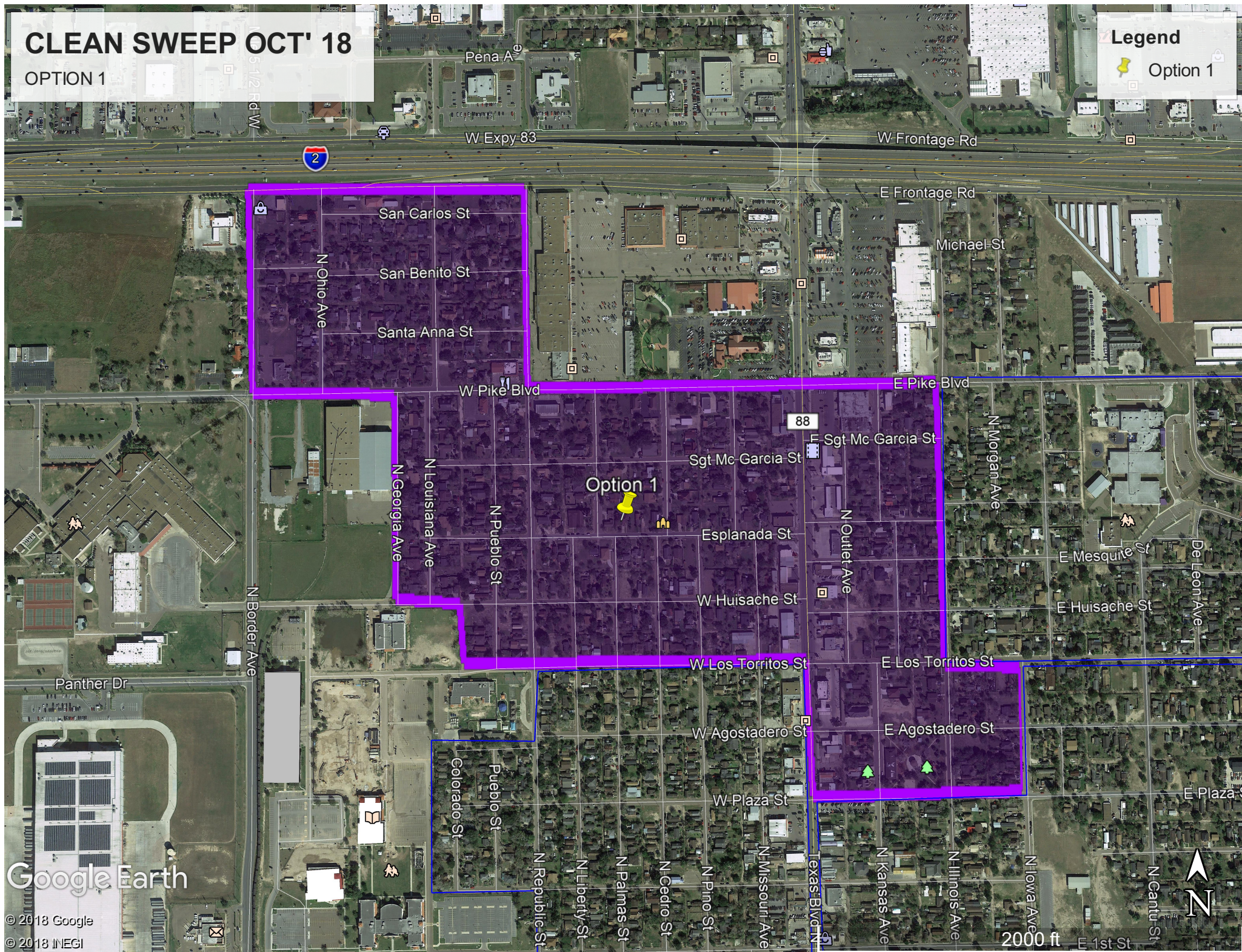
Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1895
From: Mardoqueo Hinojosa		
Subject: Discussion and consideration to select location for the October 2018 Clean Sweep Event. Possible action. (Staffed by Planning and Code Enforcement.)		
Background: The semi-annual Clean Sweep Event will be hosted in October. Two sites have been provided for a selection.		
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):		
Mardoqueo Hinojosa	Created/Initiated	
Mardoqueo Hinojosa	Approved	
Mike Perez	Final Approval	
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends selection of a site.		
Attachments, if any: October 2018- Option 1, October 2018- Option 2		
Responsibilities upon Approval: Staff will coordinate event.		

CLEAN SWEEP OCT' 18

OPTION 1

Legend

Option 1



Google Earth

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OPTION 2

OPTION 2

33 Legend

 Option 2

April '18

Option 2



Google Earth

© 2018 Google

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2000 ft



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1906
From: Mardoqueo Hinojosa		
Subject: Discussion and consideration to approve a reimbursement agreement with Robert A. McAllen to widen drainage canal adjacent to Westgate Estates No. 2 on City property/Right-of-Way and authorize Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement) Attachment.		
Background: As part of the drainage improvements for the development Westgate Estates No. 2 Subdivision, Developer was requested to receive quotes for the expanding the drainage canal on the adjacent City owned property. Developer received a bids for his project and for City requested portion. A cost of \$5 per CY was provided to City for excavation and hauling. The estimated amount of material to be excavated is about 22,800 CY. Document to be provided prior to the meeting.		
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):		
Elizabeth Walker Mardoqueo Hinojosa Mike Perez		Created/Initiated Approved Final Approval
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends approval.		
Attachments, if any: Drainage Expansion		
Responsibilities upon Approval: Staff to execute related documents and inspect construction.		

Reimbursement Agreement

Drainage Expansion

Legend

-  Proposed Area
-  Proposed Area

Proposed Area

Harlon Block Park

Key Biscayne

Conch Key

S Westgate Dr

Ambrosia Dr

Mimosa Dr

Sage Dr

Google Earth

© 2018 INEGI
© 2018 Google

1000 ft





Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1869	
From:			
Subject: Report by Finance Department - Quarterly Investment Report. Possible action to accept and file.			
Background: The quarterly investment report will be presented at the meeting. See attachment.			
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	
Mary Barrera		Approved	
Mike Perez		Final Approval	
City Manager Comments:			
Staff Recommendation: Recommend accept and file.			
Attachments, if any: 2018-06-30 qtr inv rpt FIN DEP			
Responsibilities upon Approval:			

CITY OF WESLACO
FINANCE DEPARTMENT
QUARTERLY INVESTMENT REPORT
FOR QUARTER ENDING
JUNE 30, 2018



City of Weslaco, Texas

Investment Report

June 30, 2018

Deposits:

Cash on Deposit
 BBVA Compass
 Tex Pool
 Tex Pool Prime
 Certificates of Deposit
 Rio Bank 1/15/2018
 Plains Capital Bank 7/21/18
 BBVA Compass 3/31/18
Total

3rd Quarter	2nd Quarter	1st Quarter
06/30/18	03/31/18	12/31/17
\$ 15,369,000	\$ 14,891,436	\$ 14,820,552
3,243,025	3,229,059	3,218,037
3,185,767	3,169,808	1,161,097
-	-	243,658
243,620	242,703	240,000
241,389	240,000	-
\$ 22,282,802	\$ 21,773,007	\$ 19,683,344

Rates:

Cash - Interest Earning
 BBVA Compass
 Tex Pool
 Tex Pool Prime
 Certificate of Deposits
 Rio Bank 1/15/2018
 Plains Capital Bank 7/21/18
 BBVA Compass 3/31/18

3rd Quarter	2nd Quarter	1st Quarter
06/30/18	03/31/18	12/31/17
0.80%	0.80%	0.80%
1.73%	1.39%	1.09%
2.02%	1.60%	1.32%
0.00%	0.00%	1.21%
1.50%	1.50%	1.26%
2.15%	2.15%	0.00%

Total Interest Earned for Period

Total Interest
 Average Return
 Benchmark - 4 week T-Bill Rate
 Weighted Average Maturity (Days)

\$ 56,237.36	\$ 45,293.42	\$ 37,173.06
1.13%	1.01%	0.89%
1.73%	1.62%	1.29%
6.15	8.26	3.61

Total Interest Earned Year to Date

\$ 138,703.84

This report is in full compliance with the investment policy and strategy as established for the City of Weslaco, Texas and the Public Funds Investment Act (Chapter 2256, Government Code).

Prepared by:



Maria C. Barrera, CPA, CGFO
 Finance Director

7-27-18
 Date

Reviewed by:



Mike R. Perez
 City Manager

7-27-18
 Date



Standardized Agenda Request Form

Date of Meeting: August 21, 2018		Agenda Item No. (to be assigned by CSO): 2018-1870	
From:			
Subject: Report by Finance Department - Quarterly Financial Report. Possible action to accept and file.			
Background: Report for quarter ending June 30, 2018 will be presented.			
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	
Mary Barrera		Approved	
Mike Perez		Final Approval	
City Manager Comments:			
Staff Recommendation: Accept and file.			
Attachments, if any: 2018-06-30 QTR presentation			
Responsibilities upon Approval:			

CITY OF WESLACO
FINANCE DEPARTMENT
QUARTERLY FINANCIAL REPORT
FOR PERIOD ENDING
JUNE 30, 2018

(Unaudited – For Management Discussion Only)



CITY OF WESLACO, TEXAS
STATEMENT OF FINANCIAL POSITION - GENERAL FUND COMBINED
JUNE 30, 2018

ASSETS

Cash and Equivalents	8,963,936
A/R Taxes-Current	987,165
A/R Sales Tax	892,390
A/R Ambulance Fees	1,136,385
A/R Other	43,030
Due from other Funds	502,889
Due from other Govt	110,772
Due from Others	-
Inventory	(16,924)
Prepaid Expense	6,661
Restricted Assets	347,413
TOTAL ASSETS	12,973,719

LIABILITIES

Accounts Payable	180,557
Accrued Salaries & Wages	71
Due to other Funds	860,551
Other Liabilities	796,817
Deferred Revenues	868,745
Trusts	347,414
TOTAL LIABILITIES	3,054,153

FUND BALANCE

Nonspendable fund balance	3,420
Restricted fund balance	204,170
Committed fund balance	10,494
Unassigned fund balance	7,177,663
Change in net position	2,523,819
TOTAL FUND BALANCE	9,919,566
TOTAL LIABILITIES AND FUND BALANCE	12,973,719

CITY OF WESLACO, TEXAS
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
GENERAL FUND COMBINED
JUNE 30, 2018

REVENUES	Actual	Annual Budget	
Ad Valorem Taxes	9,246,456	9,640,577	96%
Sales Tax	6,969,963	9,183,484	76%
Franchise Taxes	1,135,813	1,738,602	65%
Permits & Licenses	505,076	610,377	83%
Intergovernmental Revenue	455,368	537,696	85%
Charges for Services	1,367,712	1,805,615	76%
Fines and Forfeitures	500,744	734,777	68%
Investment Income	107,359	70,000	153%
Rentals and Royalties	56,896	70,991	80%
Other Revenue	257,927	189,526	136%
TOTAL REVENUES	20,603,315	24,581,645	84%
EXPENDITURES			
General Government	2,977,820	4,212,790	71%
Judicial and Legal	442,923	527,343	84%
Public Safety	9,862,897	13,586,266	73%
Public Works	1,627,919	2,302,426	71%
Planning and Code Enforcement	844,875	1,124,881	75%
Culture and Recreation	940,000	1,320,885	71%
Capital Outlay	1,260,556	2,129,529	59%
Debt Service	122,818	259,102	47%
TOTAL EXPENDITURES	18,079,808	25,463,222	71%
EXCESS OF REVENUES OVER EXPENDITURES	2,523,507	(881,577)	
OTHER FINANCING SOURCES (USES)			
Transfers In (Out)	(571,007)	(285,813)	
Sales of Assets	92,117		
Lease Proceeds & Other Financing Sources	1,202,828	1,894,974	
Economic Development and Assistance	(723,626)	(1,160,000)	
OTHER SOURCES (USES)	312	449,161	
NET CHANGE IN FUND BALANCE	2,523,819	(432,416)	
Fund Balance - October 1 (Beginning)	7,395,747		
Fund Balance - June 30 (Ending)	9,919,566		
Number of days in working capital	151		

CITY OF WESLACO, TEXAS
STATEMENT OF FINANCIAL POSITION - WATER & SEWER FUND COMBINED
JUNE 30, 2018

ASSETS

Cash and Equivalents	3,261,702
Restricted Cash	2,962,727
Current Receivables	2,478,908
Inventory	162,860
Other Assets	63,812
Deferred Resource Outflow	2,519,684
Assets, net of Depr	85,238,045
TOTAL ASSETS	96,687,738

LIABILITIES

Accounts Payable	797,511
Accrued Salaries & Wages	86,867
Due to Other Funds	-
Other Liabilities	5,104,237
Deferred Resource Inflow	75,848
Long Term Liabilities - Bonds	57,138,032
TOTAL LIABILITIES	63,202,495

FUND EQUITY

Net Investment in Capital Assets	30,076,151
Capital Fee Reserve	1,185,858
Restricted - Debt Service	1,303,825
Restricted - Construction	-
Unrestricted fund equity	(1,493,494)
Change in net position	2,412,903
TOTAL FUND EQUITY	33,485,243
TOTAL LIABILITIES AND FUND EQUITY	96,687,738

CITY OF WESLACO, TEXAS
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
WATER AND WASTEWATER FUNDS
JUNE 30, 2018

REVENUES	Actual	Annual Budget	
Intergovernmental Revenue	-	-	
Charges for Services	9,259,197	12,316,330	
Interest	4,856	-	
Other Revenue	231,488	268,595	
TOTAL REVENUES	9,495,541	12,584,925	75%
EXPENDITURES			
Emergency Management	-	-	
Treatment	2,095,823	3,077,050	68%
Distribution & Collection	1,580,556	2,012,114	79%
Utility Billing	234,444	297,850	79%
Water Meter Division	134,463	190,246	71%
Capital Outlay	5,783,517	7,397,403	78%
Bad Debt	-	-	
Debt Service	1,356,160	6,004,318	23%
TOTAL EXPENDITURES	11,184,963	18,978,981	59%
EXCESS OF REVENUES OVER EXPENDITURES	(1,689,423)	(6,394,056)	
OTHER FINANCING SOURCES (USES)			
Transfers In (Out)	(1,174,170)	(1,565,561)	75%
Settlement & Proceeds of Lease	5,276,495	6,501,903	
OTHER SOURCES (USES)	4,102,325	4,936,342	
NET CHANGE IN FUND EQUITY	2,412,903	(1,457,714)	
Fund Balance - October 1 (Beginning)	397,211		
Fund Balance - June 30 (Ending)	2,810,114		
Number of days in working capital	114		

CITY OF WESLACO, TEXAS
STATEMENT OF FINANCIAL POSITION - SOLID WASTE FUND
JUNE 30, 2018

ASSETS

Cash and Equivalents	503,949
Current Receivables	833,491
Noncurrent Receivable	2,000,000
Deferred Resource Outflow	7,653
Assets, net of Depr	512,175
TOTAL ASSETS	3,857,269

LIABILITIES

Accounts Payable	70,970
Accrued Salaries & Wages	21,185
Due to Other Funds	-
Noncurrent Liabilities	468,357
Deferred Resource Inflow	2,310
TOTAL LIABILITIES	562,822

FUND EQUITY

Net Investment in Capital Assets	512,175
Unrestricted fund equity	2,344,738
Change in net position	437,533
TOTAL FUND EQUITY	3,294,446
TOTAL LIABILITIES AND FUND EQUITY	3,857,268

*Fund equity includes \$2M loan advanced to Water/Sewer Fund from Solid Waste Fund to complete WTP Project

CITY OF WESLACO, TEXAS
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
SOLID WASTE FUND
JUNE 30, 2018

REVENUES	Actual	Annual Budget	
Intergovernmental Revenue	-	-	
Charges for Services	3,920,951	4,962,000	
Other Revenue	55,623	85,500	
TOTAL REVENUES	3,976,575	5,047,500	79%
EXPENDITURES			
Emergency Management	-	-	
Collection	2,090,785	3,052,504	
Transfer Station/Recycling	54,560	92,071	
Landfill	44,536	46,030	
Brush Collection	420,312	630,000	
Capital Outlay	84,535	59,000	
Bad Debt	-	-	
Debt Service	-	-	
TOTAL EXPENDITURES	2,694,729	3,879,605	69%
EXCESS OF REVENUES OVER EXPENDITURES	1,281,846	1,167,895	
OTHER FINANCING SOURCES (USES)			
Transfers In (Out)	(844,313)	(1,125,000)	75%
OTHER SOURCES (USES)	(844,313)	(1,125,000)	
NET CHANGE IN FUND EQUITY	437,533	42,895	
Fund Balance - October 1 (Beginning)	2,828,491		
Fund Balance - June 30 (Ending)	3,266,024		
Number of days in working capital	131		

CITY OF WESLACO, TEXAS
STATEMENT OF FINANCIAL POSITION - AIRPORT FUND
JUNE 30, 2018

ASSETS

Cash and Equivalents	(57,197)
Due from Other Government	-
Current Receivables	33,339
Inventory	31,354
Restricted Assets	34,224
Deferred Resource Outflow	47,772
Assets, net of Depr	11,655,781
TOTAL ASSETS	11,745,274

LIABILITIES

Accounts Payable	11,423
Accrued Salaries & Wages	167,174
Due to Other Funds	354,538
Due to Other Governments	-
Other Liabilities	3,594
Deferred Resource Inflow	14,950
TOTAL LIABILITIES	551,679

FUND EQUITY

Net Investment in Capital Assets	11,655,781
Reserved fund equity	34,224
Unreserved fund equity	(441,921)
Change in net position	(54,489)
TOTAL FUND EQUITY	11,193,595
TOTAL LIABILITIES AND FUND EQUITY	11,745,274

CITY OF WESLACO, TEXAS
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
AIRPORT FUND
JUNE 30, 2018

REVENUES	Actual	Annual Budget	
Intergovernmental Revenue	38,981	23,185	
Charges for Services	150,598	264,646	
Other Revenue	1,848	400	
TOTAL REVENUES	191,428	288,231	66%
EXPENDITURES			
Airport Operations	324,511	461,893	
Airport Grants	28,718	74,100	
Capital Outlay	80,187	84,000	
Debt Service	-	-	
TOTAL EXPENDITURES	433,416	619,993	70%
EXCESS OF REVENUES OVER EXPENDITURES	(241,989)	(331,762)	
OTHER FINANCING SOURCES (USES)			
Transfers In (Out)	187,500	255,000	
OTHER SOURCES (USES)	187,500	255,000	
NET CHANGE IN FUND EQUITY	(54,489)	(76,762)	
Fund Balance - October 1 (Beginning)	(278,487)		
Fund Balance - June 30 (Ending)	(332,976)		
Number of days in working capital	-409		

CITY OF WESLACO, TEXAS
STATEMENT OF FINANCIAL POSITION - INTERNAL SERVICE FUND
JUNE 30, 2018

ASSETS

Cash and Equivalents	1,122
Assets, net of Depr	1,072,473
TOTAL ASSETS	1,073,595

LIABILITIES

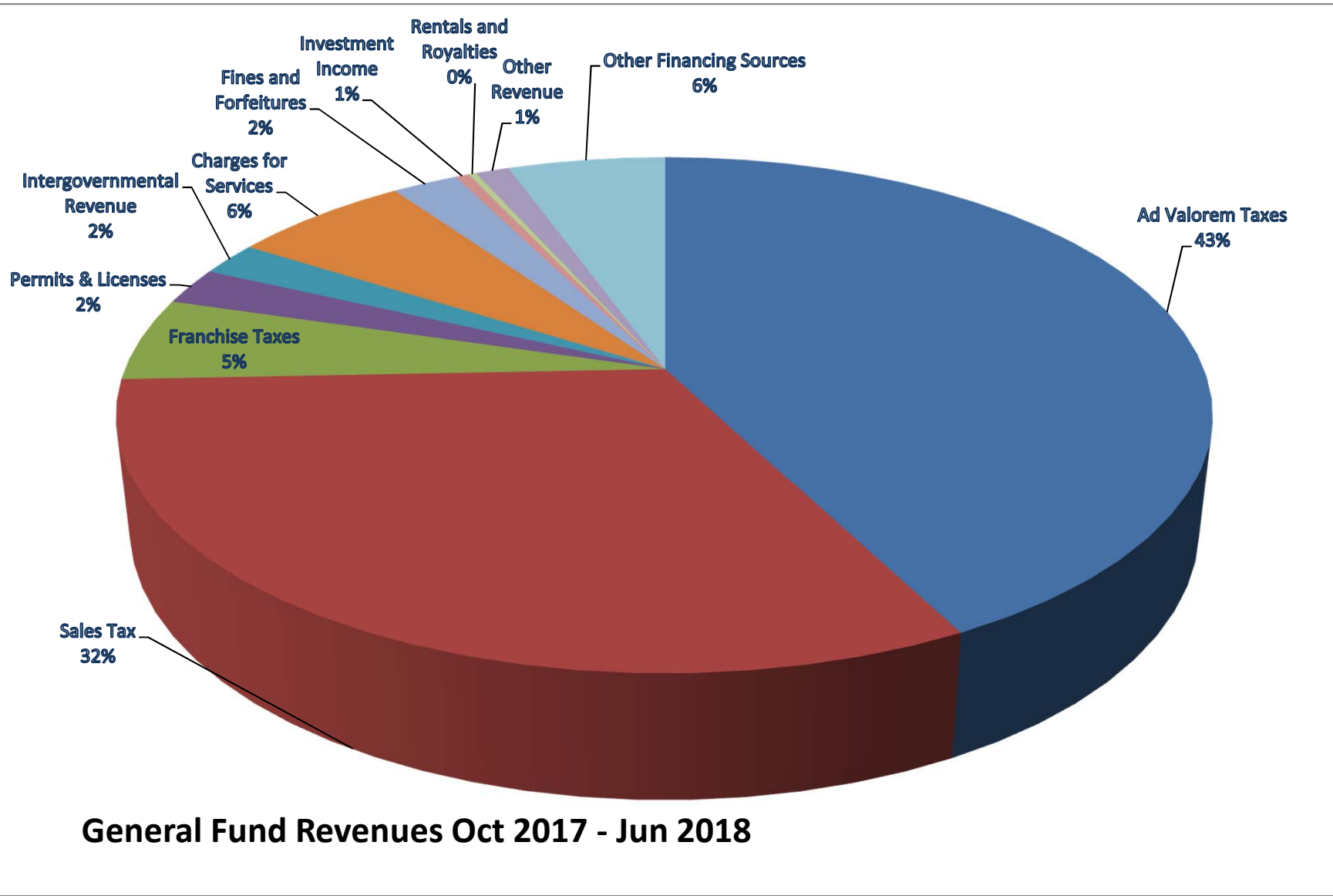
Due to Other Funds	148,351
Long Term Liabilities - Capital Lease	207,779
TOTAL LIABILITIES	356,130

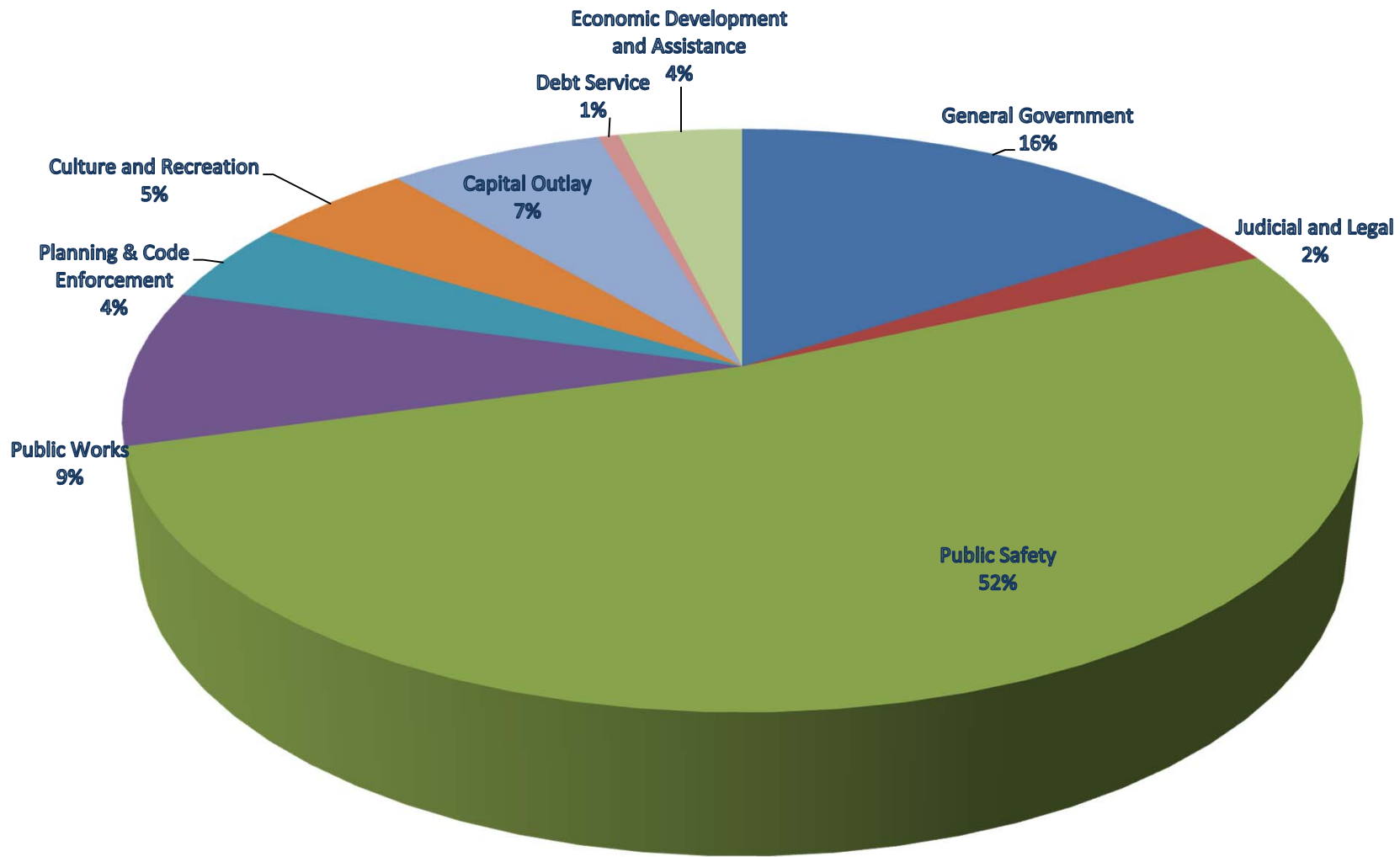
FUND EQUITY

Net Investment in Capital Assets	864,694
Reserved fund equity	-
Unreserved fund equity	(455,842)
Change in net position	308,613
TOTAL FUND EQUITY	717,465
TOTAL LIABILITIES AND FUND EQUITY	1,073,595

CITY OF WESLACO, TEXAS
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
INTERNAL SERVICE FUND
JUNE 30, 2018

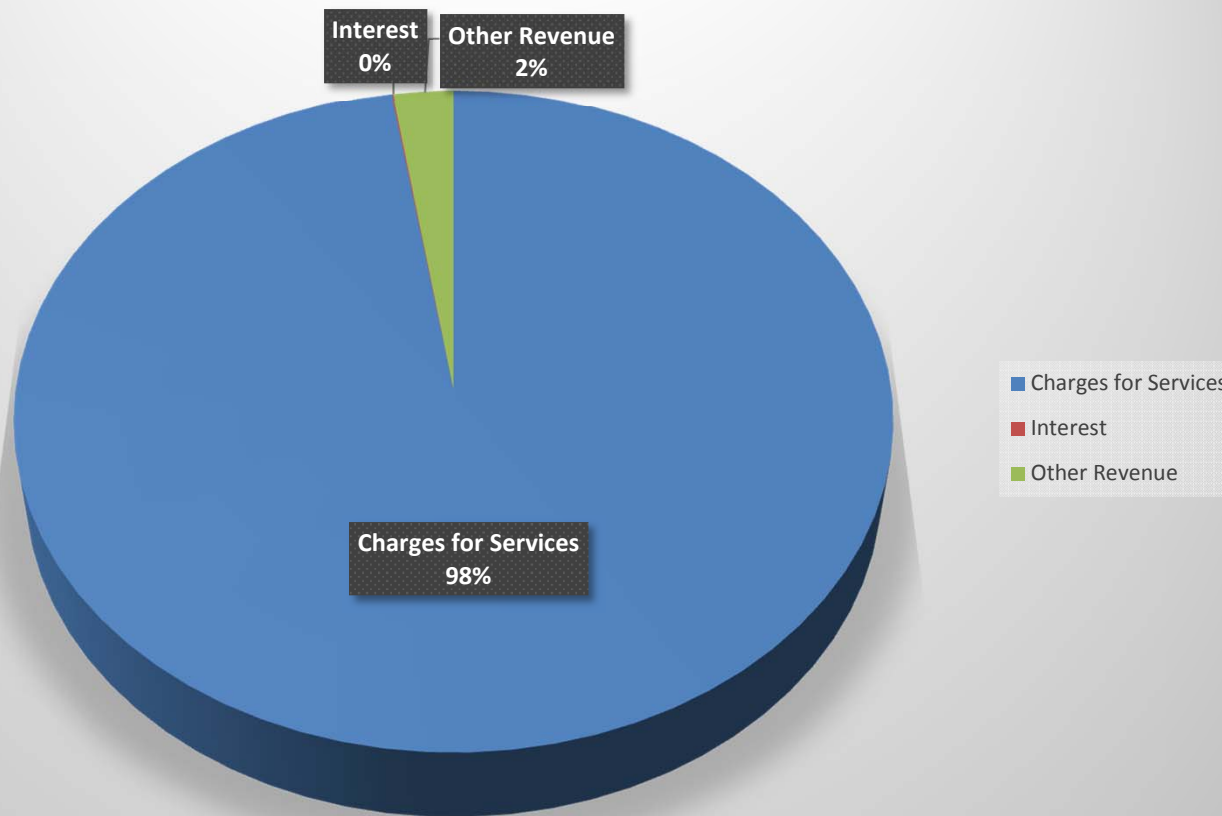
REVENUES	Actual	Annual Budget
Other Revenue	-	-
TOTAL REVENUES	-	-
 EXPENDITURES		
Depreciation	-	-
Capital Outlay	-	-
Debt Service	6,433	7,414
TOTAL EXPENDITURES	6,433	7,414
EXCESS OF REVENUES OVER EXPENDITURES	(6,433)	(7,414)
OTHER FINANCING SOURCES (USES)		
Transfers In (Out)	315,046	215,046
OTHER SOURCES (USES)	315,046	215,046
 NET CHANGE IN FUND EQUITY	 308,613	 207,632
 Fund Balance - October 1 (Beginning)	 408,852	
 Fund Balance - June 30 (Ending)	 717,465	



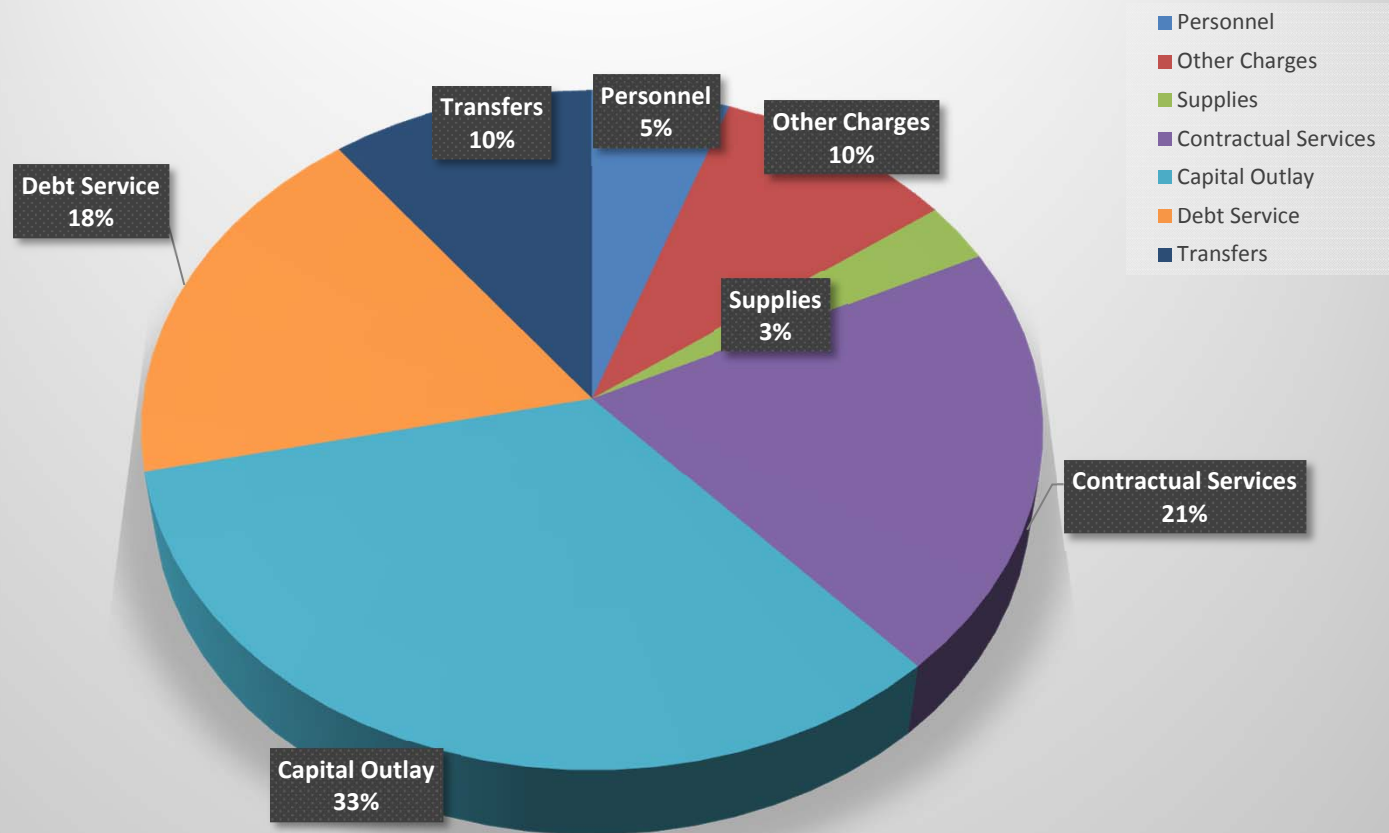


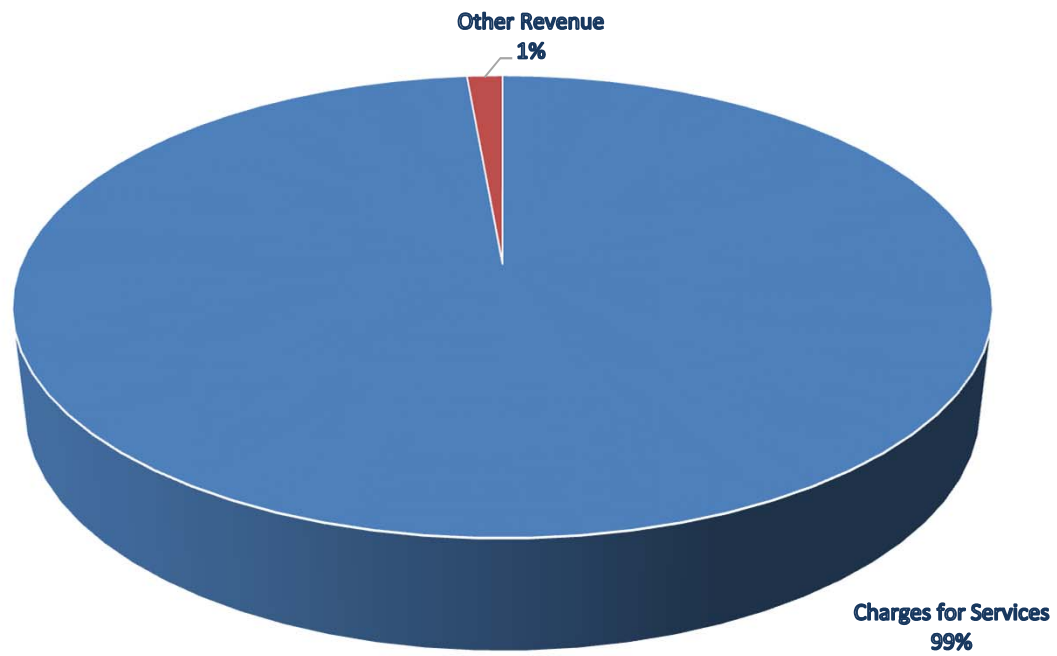
General Fund Expenditures Oct 2017 - Jun 2018

Water/Sewer Revenue Oct 2017 - Jun 2018



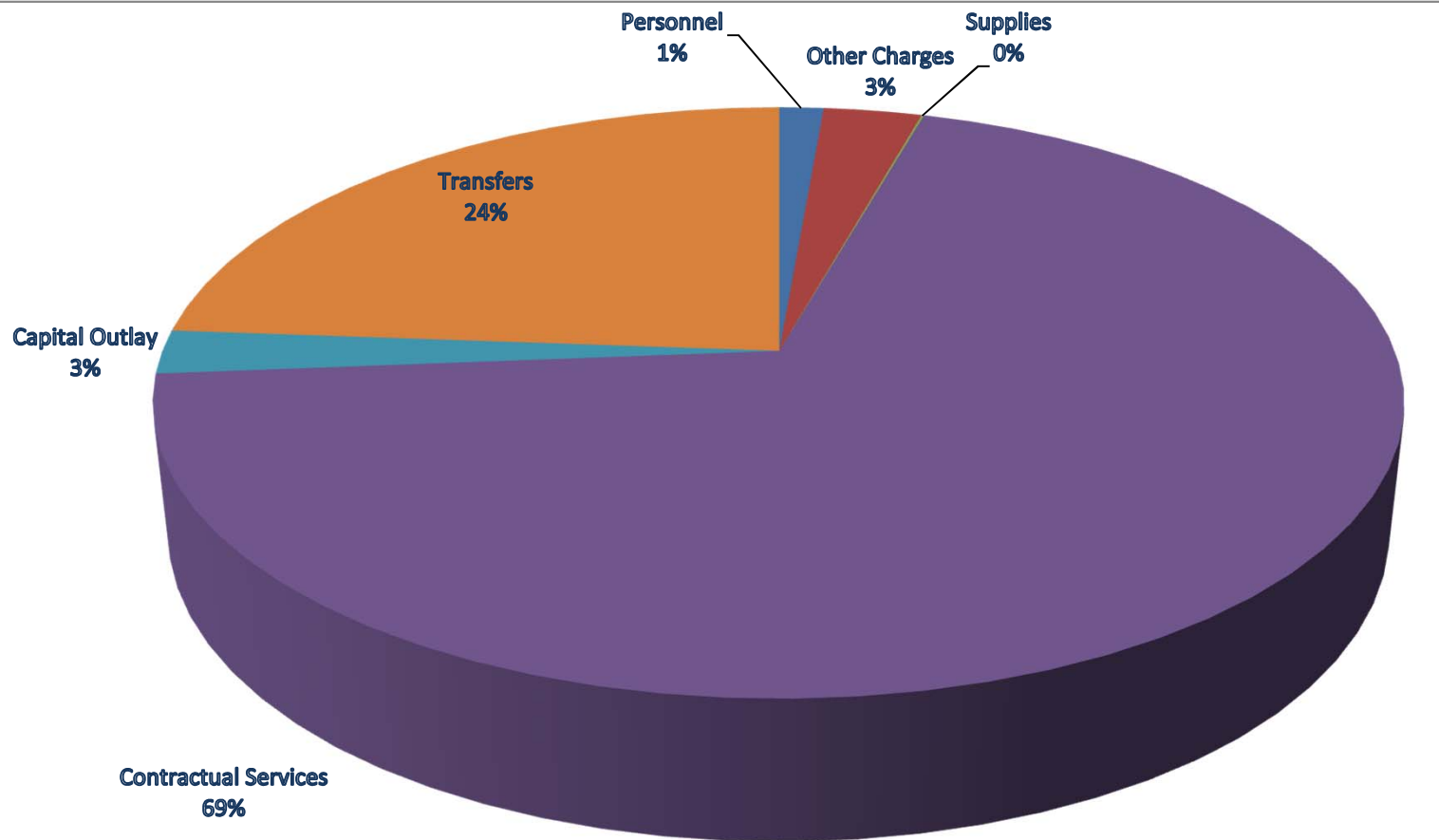
Water/Sewer Expenses Oct 2017 - Jun 2018





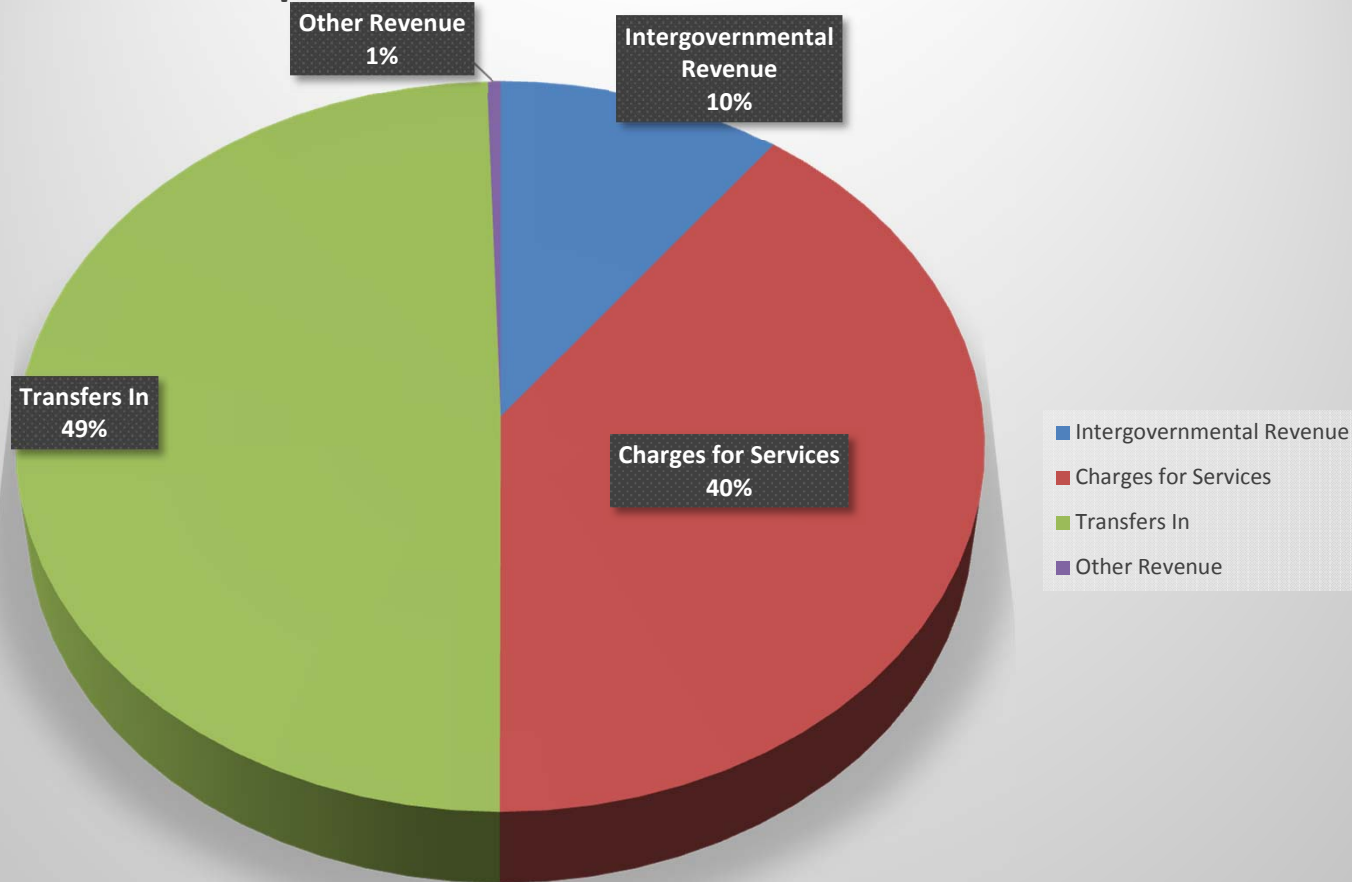
Solid Waste Revenue Oct 2017 - Jun 2018

■ Charges for Services ■ Other Revenue

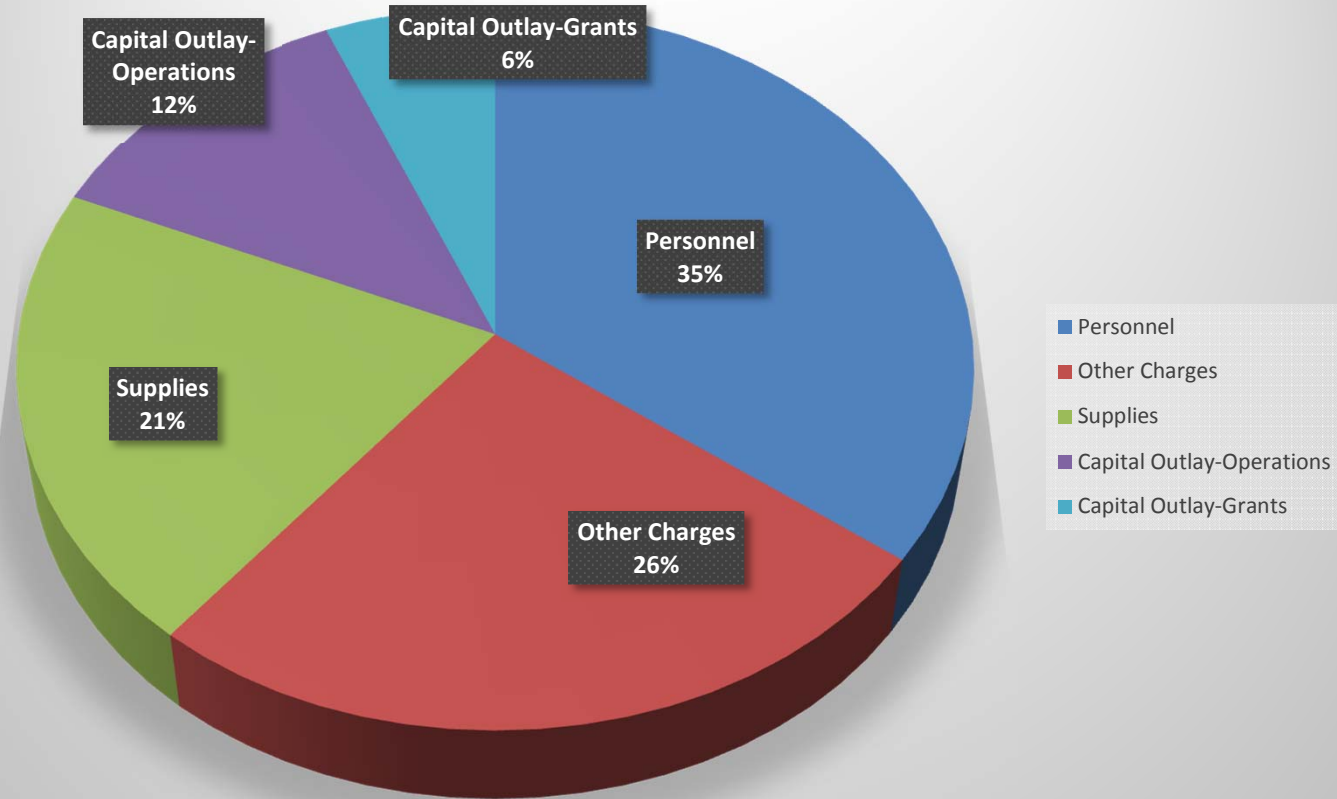


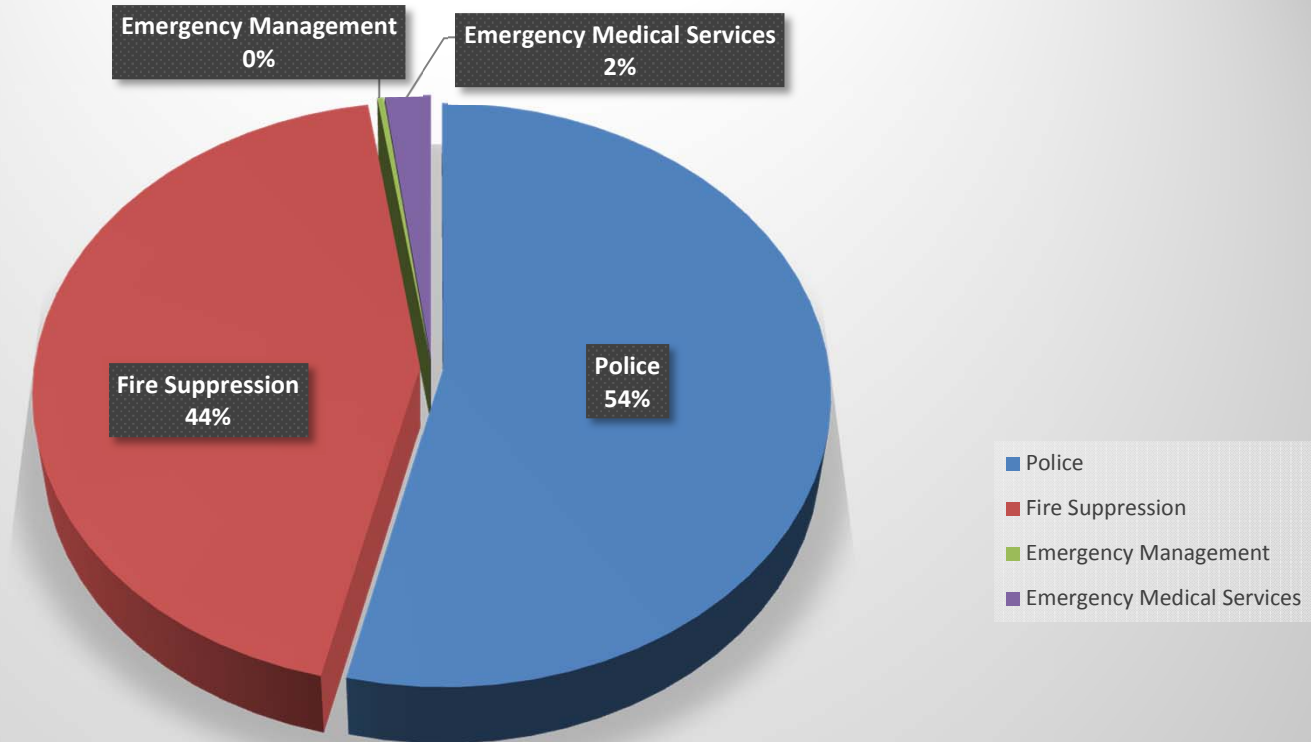
Solid Waste Expenses Oct 2017 - Jun 2018

Airport Revenue Oct 2017 - Jun 2018



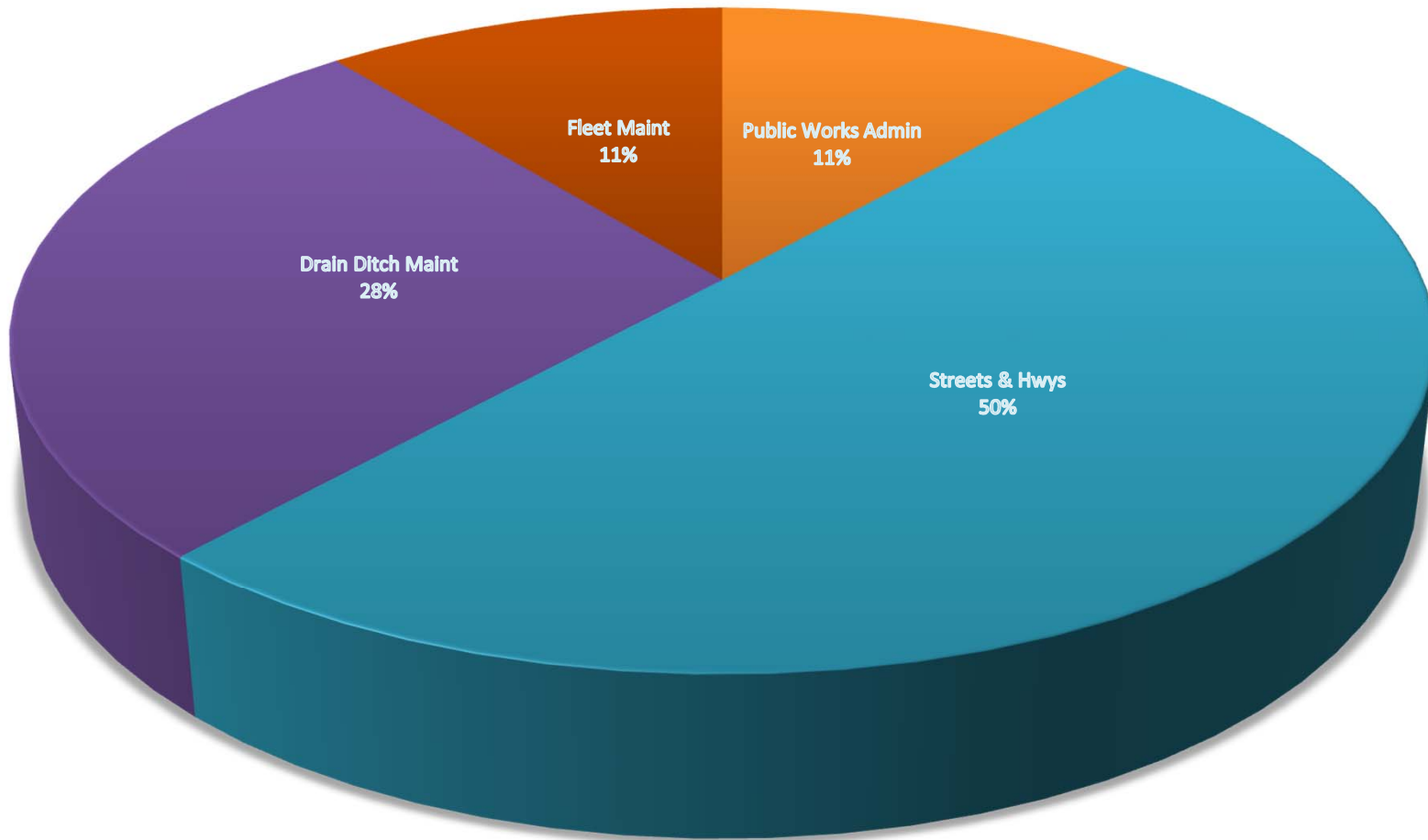
Airport Expenses Oct 2017 -Jun 2018





Public Safety Oct 2017 - Jun 2018

Public Works Oct 2017 - Jun 2018



Public Works Admin Streets & Hwys Drain Ditch Maint Fleet Maint



June & July
2018 Destination Marketing Report
Presented to City of Weslaco

June & July Advertising

- General Advertising:
 - ✓ Texas Border Business - \$425
- Texas Domestic:
 - ✓ Ongoing billboard advertising on I-2 / Expressway 83 (both directions) - \$9,250
Updated billboards, new production
- Winter Texan Advertising
 - ✓ Welcome Home RGV - \$225

Total: \$9,900

VISITATION Registrations

Visitors	In-State/Out of State
June & July	128/12

Business Visitor Events Center & Meetings	Attendance
25 events/meetings	450

Our team spent 1&1/2 days with a story writer from Welcome Home RGV. She is writing a series of Weslaco-specific stories which will appear through the Winter Texan season.

With FEMA using both conference rooms, meeting/event space is temporarily limited. So, numbers of events and attendance will be lower for a couple of months. Additionally, advertising purchases are slower during the summer. However, it is now that we are planning advertisements to generate fall traffic.

- Nature Tourism:
 - ✓ Texas Parks & Wildlife, special edition - \$1,959
- Mexico Marketing
 - ✓ 90,000 flyers distributed at international bridges on specific weekends during year - \$7,200
 - ✓ De Shopping magazine - \$805
- Promotional Items
 - ✓ “Think Weslaco” pop sockets - \$1,032
 - ✓ “Think Weslaco” refrigerator calendar magnets - \$465



THE ECONOMIC DEVELOPMENT CORPORATION
OF WESLACO

Whether you are launching, expanding or relocation a business, it makes sense to choose Weslaco – it is the Business Center of the Rio Grande Valley!

August 7, 2018

UTRGV CIC / Business School PhD Program

The inside murals, the sign saying UTRGV & Weslaco, the signature “beam”, and the plaque are the most favorite elements that Weslaco has seen, in my opinion. The contractor should finish on August 14th and the UTRGV should move in on August 16th.

This month, EDC was toured the University Apartments and saw the floor plans. The University Apartments are on the digital billboard right now trying to get more tenants.

Alfresco Weslaco

Coming up on August 16, 2018, at 6:30 pm staff is excited we will be giving free school supplies to students. Sponsors are donating backpacks, which will be filled with schools’ supplies and Vendors were asked to donate \$25 of schools’ supplies.

The band will be: Jimmy Resendez and Eskandalo Band and the stage will be set up at 5th street heading to Business 83. 50 food and arts and crafts vendors have signed up

Weslaco Downtown Merchants Workshop

July 26, 2018, the EDC staff held a workshop for retail business owner featuring Mr. Kyle Cofer, from The Retail Coach. He provided lots of good hints about retail sales.

Summary of Leads List

Staff is working with the developer for the land in front of Lowe’s; and EDC staff met with two developers for a project that we meet with at ICSC; and next week the EDC is going to meet with another retail developer.

Staff is working a total of 57 leads.

WINS included: North side park; LF Trinity Development; Kapal Hangar; University Apartments and land; KAM Inc.; and Weslaco’s Daily Grind. 57 jobs and \$5.1 mm dollars invested in Weslaco.

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