Notice is hereby given that the above governmental body will hold a Regular Meeting on Wednesday, November 7, 2018 5:30 P.M. in City Hall, Town Hall Meeting Room, 2nd Floor, Harlingen, Texas.

City of Harlingen meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary’s Office at (956) 216-5003 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.

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

Invocation/Commissioner Tudor Uhlnhorn

Pledge of Allegiance/Welcome

1) Board Recognition

2) Proclamation — proclaiming November 8-10, November 15-17 and December 1, 2018 as “Harlingen Professional Fire Fighters Local — Fill the Boot Days.” Attachment

3) Presentation by Harlingen Fire Lt., Andy Galvan to recognize the support of the City of Harlingen and the City Commission during the recent Barbeque Competition Fundraiser held on October 5th and 6th, 2018 at Fair Park Blvd. behind Casa De Amistad. Attachment (Fire Dept.)

4) Approval of Minutes
   a) Regular Meeting of September 19, 2018

The following items are of a routine or administrative nature. The Council has been furnished with background material on each item and/or it has been discussed at a previous meeting. All items will be acted upon by one vote, without being discussed separately, unless requested by a Commission member. Items withdrawn from the Consent Agenda for individual consideration in their normal sequence will be heard after the remainder of the Consent Agenda has been acted upon.

5a) Second and final reading to approve and adopt an ordinance to annex and establish the initial zoning to Residential, Single Family ("R-1") District for 8.95 acres out of Block 35, Petersburg Syndicate Subdivision, located on the east side of Park Lane East, north of Spur 54. Applicant: Dustin Moore of Moore Land Surveying, LLC, c/o Daniel Dominguez. Attachment (Planning & Zoning)
b) Second and final reading to approve an ordinance amending Chapter 28, "Licenses, Permits, and Miscellaneous Regulations" by adding Article XI, Dockless Vehicle permits and amend Chapter 18 of the Master Fee Ordinance to reflect fee changes. Attachment (Parks & Recreation)

c) Consideration and possible action to approve a request from Veronica Hunt, Advisor for the Harlingen High School Student Council, to close the following streets, Thursday, November 8, 2018, from 5:30 p.m. to 7:30 p.m., for their parade festivities and burning of the "H." Attachment (Police Dept.)

North 13th Street (just north of the Rear Parking Lot of the school)
North 13th Street and Marshall Avenue
Marshall Avenue from 13th Street to North 7th Street
Marshall Avenue and 9th Street
7th Street and Village Drive
North 7th Street (just North of Village Drive)

d) Consideration and possible action to approve a request from Rafael Kirkpatrick, with Westbrook Clinic, to close the following streets from 7:30 a.m. to 11:00 a.m. on Saturday, December 1, 2018, for their 2nd Annual "Adelante Run" Event. Attachment (Police Dept.)

West Lincoln Avenue (westbound right lane/south mall parking lot exit (across Panda Express/ IHOP)
West Lincoln Avenue / Dixieland Road
Haverford Avenue / Dixieland Road
Adrian Avenue / Dixieland Road
Garrett Road / Dixieland Road

e) Consideration and possible action to approve a refund of property taxes paid by Wells Fargo Real Estate Tax Service on behalf of Killmer James Patrick, Acct. #18-4036-0060-0070-00 in the amount of $792.79 due to adding a 100% exempt veteran's exemption for Year "2017." Attachment (Finance Dept.)

f) Consideration and possible action to approve an Industrial District Agreement between the City of Harlingen and International Cold Storage, LLC. Attachment (Gabriel Gonzalez, Asst. City Manager)

g) Investment Report for the City of Harlingen for Quarter ended September 30, 2018. Attachment (Finance)

6) Public hearing to solicit comments regarding the proposed issuance by the Arizona Industrial Development Authority (the "Authority") of its revenue bonds in one or more series from time to time pursuant to a plan of financing (the "Bonds") not to exceed $32,000,000. Attachment (City Manager)

7) Consideration and possible action to approve a resolution approving the issuance by the Arizona Industrial Development Authority of its Revenue Bonds, in one or more series, in aggregate principal amount not to exceed $32,000,000 to finance costs of acquiring, designing,
constructing and equipping a Convention Center Hotel for Provident Group-Harlingen Properties LLC. Attachment (City Manager)

8) Consideration and possible action to approve a Corporation and Development Agreement between City of Harlingen and Provident Group-Harlingen Properties, LLC for the construction of the hotel adjacent to the Harlingen Convention Center, and authorize the City Manager to sign the agreement. Attachment (City Manager)

9) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family (“R-1”) District to Residential, Duplex (“R-2”) District for Lot 12, Block 89, Harlingen Original Townsite, located at 422 W. Polk Avenue. Applicant: Juan Leonel Torres. Attachment (Planning & Zoning)

a) Public Hearing

b) Consideration and possible action to approve an ordinance on first reading to rezone from Residential, Single Family (“R-1”) District to Residential, Duplex (“R-2”) District for Lot 12, Block 89, Harlingen Original Townsite for the above described location. Attachment (Planning & Zoning)

10) Consideration and possible action to award a loan utilizing Community Development Block Grant funds to provide for the home reconstruction for Mr. Ignacio Rangel for his home located at 922 W. Grant Street; Mr. Faustino Bermudez for his home located at 1213 W. Grant Street; and for Mr. Tranquilino Ramirez for his home located at 417 W. Marjory Street. Attachment (Community Development)

11) Consideration and possible action to authorize the Harlingen Police Department to enter into a Service Agreement with A-USA JAIL SERVICES for jail phones at Harlingen City Jail, and authorize the City Manager to sign the agreement. Attachment (Police Dept.)

12) Consideration and possible action to authorize the Mayor, on behalf of the City of Harlingen, to accept grant funding in the amount of $17,800.00 made available through the Office of the Governor Homeland Security Grants Division under the 2018 State Homeland Security Program (SHSP). Attachment (Police Dept.)

13) Consideration and possible action to authorize the City to participate in the American Electric Power (AEP) rate adjustment case filed by AEP to recover losses due to repairs from damage caused by recent natural disasters, hiring legal consulting services to review the filing and direct any necessary litigation and appeals. Attachment (Gabriel Gonzalez, Asst. City Manager)

14) Consideration and possible action to approve a resolution in support of the Pendleton Square Apartments, being submitted by Pendleton Square, LP to the Texas Department of Housing and Community Affairs for 2019 Competitive 9% Housing Tax Credits, for the proposed development of the Pendleton Square Apartments affordable rental housing. Attachment (Gabriel Gonzalez, Asst. City Manager)

15) Consideration and possible action to approve an ordinance on first reading to designate a “No Parking Zone” along 25th Street, 104 feet from the intersection of Haine Drive, extending north 700 feet on the west side, and 74 feet from the intersection of Haine Drive, extending north 390 feet on the east side of 25th Street. Attachment (Public Works)
16) Consideration and possible action to rescind the action by the City Commission on October 16, 2018, authorizing the City Manager to enter into a lease purchase agreement with Yamaha for 65 golf carts. Attachment (Parks & Recreation)

17) Consideration and possible action to approve a lease purchase or purchase agreement between the City of Harlingen and Car Club to purchase 65 golf carts to be used at the Tony Butler Golf Course; and authorize the City Manager to sign the agreement. Attachment (Parks & Recreation)

18) Consideration and possible action to approve a contract between the City of Harlingen and Elizabeth Rose Flores to provide water aerobics instruction at Pendleton Park Pool and authorize the City Manager to sign the agreement. Attachment (Parks & Recreation)

19) Consideration and possible action to postpone the Harlingen Regular City Commission Meeting of November 21, 2018 to another date due to the Thanksgiving Holiday. (City Manager)

20) Board Appointments

Discussion and possible action regarding membership on any of the following listed board/entity:

a) Airport Board (0)
b) Animal Shelter Advisory Committee (1)
c) Audit Committee (Terms expire annually in June) (4)
d) Civil Service Commission
e) Community Development Advisory Board (2)
f) Construction Board of Adjustments (5)
g) Convention & Visitors Bureau (3)
h) Development Corporation of Harlingen, Inc.
i) Downtown Improvement District Board
j) Golf Course Advisory Board (1)
k) Harlingen Community Improvement Board
l) Harlingen Housing Authority Board
m) Harlingen Finance Corporation
n) Harlingen Proud Advisory Board (5)
o) Library Advisory Board
p) Mayor Wellness Council
q) Museum Advisory Board (1)
r) Parks Advisory Board
s) Planning & Zoning Advisory Board (1)
t) Senior Citizens Advisory Board (5)
u) Tax Increment Finance Board (7)
v) Utility Board of Trustees
w) Veterans Advisory Board (2)
x) Zoning Board of Adjustments (6)

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

21) Executive/Closed Session on the following items:
a) pursuant to Tex. Gov't. Code Sec. 552.071(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding the recovery of delinquent Hotel Occupancy Tax payments. (City Manager)

b) pursuant to Section 551.071, Texas Gov't Code to consult with the City Attorney regarding the Firemen Pension.

c) Personnel - deliberation pursuant to Texas Gov't Code, Section, 551.074, to deliberate the appointment, employment, evaluation, reassignment, or duties of the City Auditor. (Mayor)

d) Personnel - deliberation pursuant to Texas Gov't Code, Section 551.074, to deliberate the appointment, employment, evaluation, reassignment, or duties of the City Attorney. (Mayor)

22) Consideration and possible action as discussed in executive session regarding Item 21(a). (City Manager)

23) Consideration and possible action as discussed in executive session regarding Item 21(b). (City Manager)

24) Consideration and possible action as discussed in executive session regarding Item 21(c). (City Manager)

25) Consideration and possible action to approve an updated legal services agreement with the Law Firm of Denton, Navarro, Rocha, Bernal & Zech, PC for city attorney legal services for FY 2019. (City Manager)

26) Citizen Communication

I, the undersigned authority, do hereby certify that the above notice of meeting is a true and correct copy of said notice posted on the City's bulletin board, City Hall, 118 E. Tyler Avenue, a place convenient and readily accessible to the general public at all times and said notice was posted on Friday, November 2nd, 2018 at 5:30 p.m. at least 72 hours preceding the scheduled time of said meeting.

Dated this 2nd day of November, 2018

Amanda C. Elizondo, City Secretary
WHEREAS, the Harlingen Professional Fire Fighters are the prime example of public service and sacrifice, displaying the nobility to protect the citizens of our community every day; and

WHEREAS, the Harlingen Professional Fire Fighters members are highly dedicated and trained individuals who demonstrate American ideals, the ultimate standard of character and courage in the face of danger; and

WHEREAS, the Harlingen Professional Fire Fighters members selflessly contribute their time and energy fighting for kids and adults with muscular dystrophy, ALS and related life-threatening diseases that severely limit muscle strength and mobility by Filling the Boot each year for the Muscular Dystrophy Association (MDA); and

WHEREAS, in the past five years, the Harlingen Professional Fire Fighters has raised more than $145,000 for MDA through the annual Fill the Boot campaign; and

WHEREAS, the Harlingen Professional Fire Fighter's endless service to MDA has given so much hope for families fighting life-threatening muscle diseases;

NOW THEREFORE, I, Chris Boswell, Mayor of Harlingen, TX, do hereby proclaim November 8 -10, November 15 - 17, and Nov 29 - Dec 1, 2018 as;

HARLINGEN PROFESSIONAL FIRE FIGHTERS LOCAL
"FILL THE BOOT DAYS"

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Harlingen to be affixed this 7th day of November, 2018.

City of Harlingen

Chris Boswell, Mayor

ATTEST:

Amanda C. Elizondo, City Secretary
**AGENDA ITEM**

**EXECUTIVE SUMMARY**

**Meeting Date:** 11/07/18

**Agenda Item:**
Presentation by Harlingen Fire Lt. Andy Galvan to recognize the support of the City of Harlingen and the City Commission during the recent Barbeque Competition Fundraiser held on October 5th & 6th 2018 on Fair Park Blvd. behind the Casa De Amistad

**Prepared By (Print Name):** Rogelio Rubio  
**Title:** Fire Chief  
**Signature:** [Signature]

**Brief Summary:**
Lt. Andy Galvan, representing the Harlingen Professional Firefighters Association would like to thank the City of Harlingen and the City Commissioners for their support of the 7th Annual ‘Harlingen’s Bravest’ Cook-Off. This event is held annually to raise funds for the Emergency Assistance Fund to assist ones who are affected by Fire.

**Funding (if applicable):**
Are funds specifically designated in the current budget for the full amount for this purpose?  
*If no, specify source of funding and amount requested:

Finance Director’s approval: [ ] Yes [ ] No [ ] N/A

**Staff Recommendation:**

City Manager’s approval: [ ] Yes [ ] No [ ] N/A

**Comments:**

City Attorney’s approval: [ ] Yes [ ] No [ ] N/A

*form revised 04/29/09*
7th Annual Harlingen's

Cook-Off

Bravest

OCTOBER 5-6 2018

Harlingen Professional Firefighter's Association

In conjunction with City of Harlingen

Judging

(subject to change)

Friday

- Beef Fajitas 6:00 PM
- Margaritas 9:00 PM

Saturday

- Pinto Beans 10:00 AM
- Chef's Choice 11:00 AM
- Half Chicken 12:00 PM
- Pork Spare Ribs 1:30 PM
- Brisket 3:00 PM

Entry Fee: $175

Fee includes entry in ½ Chicken, Pork Spare Ribs and Brisket

$25 per Jack Pot - Margaritas

Beef Fajitas, Chef's Choice and Pinto Beans

Contact:
A Regular Meeting of the Harlingen Elective Commission was held on September 19, 2018 at 5:30 p.m., City Hall, Town Hall Meeting Room, 2nd Floor, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

**Mayor and Commissioners**
- Chris Boswell, Mayor
- Michael Mezmar, Mayor Pro-Tem, District 3
- Richard Uribe, City Commissioner, District 1
- Tudor Uhlhorn, City Commissioner, District 2
- Ruben de la Rosa, City Commissioner, District 4
- Victor Leal, City Commissioner, District 5

**Staff Present**
- Dan Serna, City Manager
- Amanda C. Elizondo, City Secretary
- Rebecca Hayward, Asst. City Attorney

Mayor Boswell called the meeting to order and announced the meeting was duly posted according to State Law. The following proceedings were held:

**Invocation/Commissioner Ruben De La Rosa**

**Pledge of Allegiance/Welcome**

Mayor Boswell recited the Pledge of Allegiance and welcomed those in attendance.

1) **Special Recognition**

Mayor Boswell presented certificates of recognition to Major Ford Kinsley and Maxwell Fortin, Cadet with the Marine Military Academy, for volunteering at the Recycling Center on Saturday, August 25, 2018. Eleven cadets from the Marine Military Academy helped at the City’s Recycling Center under the direction of Major Ford Kinsley. They produced one and a half bales of shredded paper, one bale of shrink plastic wrap and one bale of plastic water bottles. They sorted through forty two recycling containers (96 Gallons) that weighed approximately one hundred pounds apiece. They helped sweep and clean the entire Recycling Center. Mayor Boswell expressed his appreciation on behalf of the City Commission for all the help the Marine Military Academy has done to beautify the City.

2) **Presentation by Carlos Sanchez, Asst. City Manager on the recent rain events.**

Carlos Sanchez, Asst. City Manager, stated as an engineer, and with his background in hydrology/water resources, in his opinion, the storm system fared well. During the storm of June 18th through 21st, 2018, 16.85 inches of rainfall was recorded within a 72 hour period which caused flooding in various areas cities. Floodwaters were up to 4 ft. deep on roadways. Approximately 42 homes experienced water damages in Harlingen. On September 12th and 13th, 2018, 3.79 inches of rain fell was recorded in a one hour period. Various areas were flooded on the east and northeast of the city. The east and northeast areas flooded 2-3 ft. on some roadways. He presented a power point presentation and highlighted the characteristics of a storm which defines the classification of a 25-50
year storm event or a 100 to 500 years storm event. He highlighted the following recommendations to improve the flow of drainage water.

RECOMMENDATIONS

• Updating the 2014 Hydraulic model studies that utilize achievable field conditions (hydraulic coefficient) and elevation control parameters to determine capacity of the Arroyo Colorado;
• Conduct hydraulic model studies for the North Floodway to develop capital improvement projects that will increase diversion rates into the North Floodway;
• Develop and construct capital improvement projects that:
  • Improve structural integrity and operational "controls" of the diversion dike;
  • Improve capacity of North Floodway to increase conveyance capacity;
  • Increase cross section of floodway
  • First flood waters routed through north floodway
  • Reconstruct the bypass pump structure south of Sebastian - Gate Structure 520L.
• Assist communities and drainage districts to improve drainage infrastructure that:
  • Provide the ability for communities to discharge into the Arroyo before diversion flows reach populated areas;
  • Provide for construction of gates structures and installation of bypass pump structures that preserve the communities' ability to discharge into the Arroyo;
  • Identify location for regional detention facilities that would mitigate peak flows discharging into the Arroyo.

Projected Completed to Date

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The City is eligible for grant funds through TDEM/FEMA, the Hazard Mitigation Action Plan up to Year 2020. He also recommended updating the 2008 Master Drainage Plan - Hydraulic Models to include new developments and annexed areas along with any updated construction estimates.

Commissioner Uhlhorn inquired how the City would work with Drainage District 5 in coordinating the addition and expansion of ditches.

Mr. Sanchez stated he would continue communicating with the Drainage District to stay informed of the projects they had planned to include their projects into the Hazard Mitigation Action Plan. This would allow them to qualify for some of the grants that were being offered.
Mayor Boswell stated the City has invested over $13.5 million toward the drainage system in
the last 10 years to improve the City's infrastructure and to provide better drainage through the
community. In the 2008 Master Plan, there is a security of grant funds to invest in drainage projects
to decrease issues that arise through any natural disasters. This is an important issue for the
community and the City is committed to improving the infrastructure.

3) Approval of Minutes

a) Special Meeting – August 3, 2018
b) Regular Meeting – August 15, 2018
c) Special Meeting – August 22, 2018

Motion was made by Commissioner De La Rosa and seconded by Commissioner Uhlhorn to
approve the minutes of August 3, August 15, and August 22, 2018. Motion carried unanimously.

CONSENT AGENDA

4a) Second and final reading to approve an ordinance adopting the City of Harlingen Budget for
Fiscal Year 2018-2019.

b) Second and final reading to approve an ordinance by record vote adopting the 2018 Ad

c) Second and final reading to approve an ordinance by record vote adopting the 2018 Ad

d) Consideration and possible action to approve a request from the Rio Grande Valley Jaycees to
close Jackson Street between 8th Street and "E" Street and 8th Street to "E" Street between
Van Buren and Monroe Avenue, Friday, December 7, 2018 from 4:30 p.m. to 9:00 p.m. for the
72nd Annual Jaycees Christmas Parade.

e) Consideration and possible action to approve a request from the Harlingen Housing Authority
to close North 24th Street at LeMoyne Gardens from 4:00 p.m. to 7:00 p.m., Thursday, October
25, 2018 for the Community Fall Festival.

f) Consideration and possible action to approve a request from the Harlingen Consolidated
Independent School District to close 13th Street directly in front of Boggus Stadium,
Wednesday, October 3, 2018 from 5:00 p.m. to 8:00 p.m. for HCISD Band Night Presentation.

g) Consideration and possible action to approve an agreement with Rio Grande Valley Birding
Festival for the use of Hotel Motel Funds for promotion of tourism through the Annual Birding
Festival and authorize the Mayor to sign the agreement.

h) Consideration and possible action to approve an agreement with Marine Military Academy for
the use of Hotel Motel Funds for promotion of tourism by maintaining the Iwo Jima Monument
and authorize the Mayor to sign the agreement.

i) Consideration and possible action to approve an agreement with Harlingen Performing Arts
Theatre for the use of Hotel Motel Funds for promotion of the arts and authorize the Mayor to
sign the agreement.
Consideration and possible action to approve an agreement with Loaves and Fishes to provide meals for the homeless and needy through their kitchen and food pantry and authorize the Mayor to sign the agreement.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the Consent Agenda Items 4 (a) through (j). Motion carried unanimously.

ORDINANCE NO. 2018-34
AN ORDINANCE ADOPTING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR THE FISCAL YEAR OCT. 1, 2018 THROUGH SEPT. 30, 2019 IN THE AMOUNT OF $74,006,816 and $76,716,133 RESPECTIVELY; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 2018-35
AN ORDINANCE FIXING THE AD VALOREM TAX RATE FOR MAINTENANCE AND OPERATIONS FOR THE CITY OF HARLINGEN, TEXAS FOR THE CALENDAR YEAR 2018 AT $0.460827 PER $100.00 DOLLARS VALUATION; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ORDINANCE NO. 2018-36
AN ORDINANCE FIXING THE AD VALOREM TAX RATE FOR INTEREST AND SINKING PAYMENTS FOR THE CITY OF HARLINGEN, TEXAS FOR THE CALENDAR YEAR 2018 AT $0.128000 PER $100.00 DOLLARS VALUATION; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this 5th day of September, 2018.

PASSED AND APPROVED on second and final reading this 19th day of September, 2018.

ATTEST:
/ /AMANDA C. ELIZONDO, CITY SECRETARY
MAYOR

5) Consideration and possible action to approve the Keep Harlingen Beautiful Budget for Fiscal Year 2018-2019. Presentation by Major Ford Kinsley, President.

Major Ford Kinsley, President of Keep Harlingen Beautiful Board of Directors, stated they provide various functions throughout the City. For FY 2018-2019, their plans are to host the Annual Make a Difference State Project, which is an aggressive tree planting program. They also had other events planned, such as the E-Waste Event, Educational Session on Recycling, and Environmental Awareness Programs to the public and other beautification projects that may be suggested.

Mayor Boswell thanked the board for their hard work to keep Harlingen beautiful.

Motion was made by Mayor Pro-Tern Mezmar and seconded by Commissioner De La Rosa to approve the Keep Harlingen Beautiful Proposed Budget for Fiscal Year 2018-2019. Motion carried unanimously.

6) Consideration and possible action to approve a resolution adopting the Development Corporation of Harlingen, Inc. Proposed 2018-2019 Budget.


PROPOSED BUDGET FISCAL YEAR 2018-2019

| FY 2017-18 Totals | FY 2018-19 Approved Budget | FY 2018-19 Proposed Budget |
Revenues: $6,295,750
Expenditures: $6,192,587
Excess Revenues over Expenditures: $103,163

Motion was made by Commissioner Uhlhorn and seconded by Commissioner De La Rosa to approve the resolution adopting the Development Corporation of Harlingen, Inc. Proposed 2018-2019 Budget. Motion carried unanimously.

7) Consideration and possible action to approve an ordinance on first reading amending the City of Harlingen Code of Ordinances, Article XVI, Section 111-142 to reduce the composition of the Zoning Board of Adjustments from six (6) to five (5) regular members, and from six (6) to (5) five alternate members; Article XVI, Section 111-143, to clarify the authority of the Zoning Board of Adjustment; and Article XVI, Section 111-444, to clarify the appeal of decisions by the Zoning Board of Adjustment. Applicant: City of Harlingen.

Rodrigo Davila, Planning and Development Director, stated the proposed amendments reflects the Zoning Board of Adjustments (ZBA) Code of Ordinances, which consist of the following four (4) changes to the existing ordinance.

1. Currently, there are six (6) members and six (6) alternate members. The proposed amendment consists of five (5) regular members and five alternate members. The appointees shall be selected on a rotating basis among the Mayor and City Commissioners in accordance with the administrative schedule kept by the Office of the City Secretary.

2. A quorum of the ZBA was reduced from five (5) to four (4) regular or alternate members.

3. Each case before the ZBA must be heard by 75% of the members; the concurring vote of 75% of the members is necessary to pass any measure or take any action. The 75% rule to grant a variance does not change. Under the existing ordinance there, are six (6) regular ZBA members and five (5) concurring votes are required to grant a variance. With the proposed amendment; there will be five (5) regular members, and four concurring votes will be required to grant a variance.

4. There is a change on the number of times a variance may be considered. Currently, a variance may be considered a second time and after the second time, if the variance is not approved, such request shall not be re-submitted until six (6) months after the second consideration. This process was inadvertently included when the Code of Ordinances was codified. Under the proposed amendment a variance cannot be considered a second time. Any appeal of the variance must be submitted to the District Court within 10 days after the decision is filed in the board's office.

Rebecca Hayward, Asst. City Attorney, read the caption of the ordinance.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the ordinance on first reading amending the City of Harlingen Code of Ordinances, Article XVI, Section 111-142 to reduce the composition of the Zoning Board of Adjustments from six (6) to (5) five regular members, and from six (6) to five (5) alternate members; Article XVI, Section 111-143, to clarify the authority of the Zoning Board of Adjustment; and Article XVI, Section 111-444, to clarify the appeal of decisions by the Zoning Board of Adjustment. Motion carried unanimously.

8) Public hearing to consider an ordinance on first reading to rezone from Not Designated ("N") District to General Retail ("GR") District for 10.54 acres out of Block 54, David and
Stephenson Subdivision, located at the southwest corner of Loop 499 and Briggs Coleman Road, Applicant: Christine Vargas.

Mr. Davila stated Christine Vargas is requesting to rezone the subject property from Not Designated District to General Retail District for commercial purposes. The property consists of 10.54 acres and is located at the southwest corner of Loop 499 and Briggs Coleman Road. The surrounding land uses consist of General Retail to the north and west, Not-Designated to the east, and Single Family Residential to the south. The request is consistent with the Future Land Use Plan as mixed use. Staff received a phone call in opposition of the request due to the possibility of noise, congestion, traffic, trash, and light pollution going into the residential areas that are associated with commercial uses.

a) Public Hearing

Mayor Boswell announced this was a public hearing and stated anyone wishing to speak for or against this item may do so.

There being no comments, Mayor Boswell closed the public hearing.

b) Consideration and possible action to approve an ordinance on first reading to rezone the above described property from Not Designated ("N") District to General Retail ("GR") District.

Ms. Hayward read the caption of the ordinance.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the ordinance on first reading to rezone the above described property from Not Designated ("N") District to General Retail ("GR") District. Motion carried unanimously.

9) Public hearing to receive comments regarding the proposed voluntary annexation and to establish the initial zoning to Residential, Single Family ("R-1") District for 8.95 acres out of Block 35, Petersburg Syndicate Subdivision, located on the east side of Park Lane East, north of Spur 54. Applicant: Dustin Moore of Moore Land Surveying, LLC, c/o Daniel Dominguez.

Mr. Davila stated Dustin Moore was proposing to subdivide the subject property into a one lot residential subdivision under the name of Dominguez Subdivision. Part of the proposed subdivision consists of 0.16 acres which are inside the City limits. The east 8.95 acres are located outside the City limits and is landlocked. The Dominguez Subdivision will have frontage on the east of Park Lane. The developer is responsible for all infrastructure provisions, including street development, street lights, water and wastewater services, storm sewer, and other requirements as specified under the subdivision regulations.

Mayor Boswell announced this was a public hearing and stated anyone wishing to speak for or against this item may do so.

There being no comments, Mayor Boswell closed the public hearing.

No action was taken.

10) Public hearing to consider an ordinance on first reading to amend the Planned Development ("PD") Site Plan from Commercial to Multi-Family Residential for Lot 1, Block 3, Adams Landing Subdivision, Applicant: Armando Elizarde.
Mr. Davila stated the property is vacant and is part of the Adams Landing Subdivision. It is a planned development subdivision consisting of 50 garden home lots in the interior streets and two commercial lots along the frontage of Loop 499. There is an existing 3 ft. non-access easement on Loop 499. There is access to the property through Adams Landing Avenue and Legacy Lane. The building setbacks for the proposed multi-family lot will be 20 feet in the front, and 10 ft. on the sides and rear yard setbacks. The surrounding properties are zoned Planned Development District for garden homes to the north, general retail to the south and west, and Not Designated District to the east. The Future Land Use Plan shows the area as low density residential. The request is not consistent with the Future Land Use Plan. It is a lower intense land use than the current designated use on the property and surrounding properties on Loop 499.

a) Public Hearing

Mayor Boswell announced this was a public hearing and stated anyone wishing to speak for or against this item may do so.

There being no comments, Mayor Boswell closed the public hearing.

b) Consideration and possible action to approve an ordinance on first reading to amend the Planned Development ("PD") Site Plan from Commercial to Multi-Family Residential for Lot 1, Block 3, Adams Landing Subdivision.

Ms. Hayward read the caption of the ordinance.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner De La Rosa to approve the ordinance on first reading to amend the Planned Development ("PD") Site Plan from Commercial to Multi-Family Residential for Lot 1, Block 3, Adams Landing Subdivision. Motion carried unanimously.

11) Public hearing to consider an ordinance on first reading to rezone from Planned Development ("PD") District to Light Industry ("LI") District for Lot 1, Block 1, Dollar Thrifty Subdivision, located at 3410 E. Grimes Avenue. Applicant: William Robert Sullivan.

Mr. Davila stated William Robert Sullivan was requesting to rezone from Planned Development ("PD") District to Light Industry District to allow for a car repossession business. There is an existing 1,240 square ft. building that was used as a car rental business. The property has 259 ft. of frontage on Grimes Avenue and a depth of 295 ft. Grimes Avenue is a 40 ft. wide paved street. The property was rezoned to Planned Development District in 1989, which restricted the property to a car rental business. The surrounding properties are zoned Light Industry ("LI") District to the north, south, east, and west. The surrounding land uses consist of vacant land in agriculture use to the north and south, vacant land in agriculture use and the Harlingen Fire Station to the east and a vacant convenience store to the west. The Future Land Use Plan component of the City of Harlingen Comprehensive Plan, One Vision, and One Harlingen shows this area as an employment center. The request is consistent with the Future Land Use Plan and consistent with the surrounding Light Industry District Zoning on the east Grimes Avenue.

a) Public Hearing

Mayor Boswell announced this was a public hearing and stated anyone wishing to speak for or against this item may do so.
There being no comments, Mayor Boswell closed the public hearing.

b) Consideration and possible action to approve an ordinance on first reading to rezone from Planned Development ("PD") District to Light Industry ("L") District for Lot 1, Block 1, Dollar Thrifty Subdivision located at 3410 E. Grimes Avenue.

Ms. Hayward read the caption of the ordinance.

Motion was made by Commissioner De La Rosa and seconded by Mayor Pro-Tern Mezmar to approve the ordinance on first reading to rezone from Planned Development ("PD") District to Light Industry ("L") District for Lot 1, Block 1, Dollar Thrifty Subdivision, located at 3410 E. Grimes Avenue. Motion carried unanimously.

12) Consideration and possible action to grant a variance with regard to 100 feet of right-of-way required for a minor arterial street on the proposed Replat of Lot 1, Block 1, Casa Blanca Subdivision, located at 1510 N. Commerce. Applicant Tomas Diaz.

Mr. Davila stated Tomas Diaz is requesting a variance to the 20 ft. of additional right-of-way required for Commerce Street on the proposed resubdivision due to the development of this area, and the required right-of-way would cut into their existing building. Commerce Street between Markowsky Ave. and W. Washington Ave. is a 52.5 ft. b/b street with 60 ft. of right-of-way. There is no case history of variances to the right-of-way requirement on Commerce Street or the surrounding area.

Motion was made by Commissioner Leal and seconded by Mayor Pro-Tern Mezmar to grant a variance with regard to the 100 ft. of right-of-way required for a minor arterial street on the proposed Replat of Lot 1, Block 1, Casa Blanca Subdivision, located at 1510 N. Commerce. Motion carried unanimously.

13) Consideration and possible action to award RFQ 2018-10 Professional Engineering Services to Qualified Firm(s) and authorize the City Manager to enter into a Professional Services Contract with such Firm(s) as projects arise.

Ponciano Longoria, City Engineer, stated on August 19, 2018 the City solicited proposals for professional engineering services. The City received 17 proposals from qualified firms who are licensed by the State of Texas to provide engineering services. The firms were ranked and evaluated by staff. Staff is recommending the top four (4) firms to be placed on a rotation list for a three (3) year period.

Motion was made by Mayor Pro-Tem Mezmar and seconded by Commissioner De La Rosa to award RFQ 2018-10 Professional Engineering Services to Qualified Firm(s) and authorize the City Manager to enter into a Professional Services Contract with such Firm(s) as projects arise. Motion carried unanimously.

14) Consideration and possible action to approve an ordinance on first reading to create an "All-Way Stop Sign" condition at the intersection of Dixieland Street and Garrett Road.

Mr. Longoria stated currently Dixieland Road is a two way stop. There are concerns with the line of sight for vehicles at the intersection of Dixieland and Garrett Road. An onsite inspection was conducted and it was determined that the line of sight is hindered due to the existing fences. He recommended adding two stop signs on both direction of traffic and place an "All-Way Stop." Mr. Longoria stated they are looking into the best cost effective method for the City to provide the notification and safety for citizens. The size of the signs would be 36"x36" and would be placing a larger sign on Dixieland Road.
Ms. Hayward read the caption of the ordinance.

Motion was made by Commissioner Leal and seconded by Mayor Pro-Tern Mezmar to approve the ordinance on first reading to create an “All-Way Stop Sign” condition at the intersection of Dixieland Road and Garrett Road. Motion carried unanimously.

15) Consideration and possible action to accept or reject bids for the reroofing construction of Fire Station Number 6 & 7 under Bid No. 2018-11 and authorize City Manager to negotiate and execute a contract with the successful lowest bidder.

Javier Mendez, Parks and Recreation Director, stated in August 2018, staff solicited sealed bids for the re-roofing of the Fire Stations No. 6 & 7. The City received four (4) bids, the lowest bid for Fire Station #6 was $74,433.00 and for Fire Station #7 was $42,544.00, for a total amount of $116,977.00 for both stations from Argio Roofing & Construction, LLC.

Motion was made by Commissioner De La Rosa and seconded by Mayor Pro-Tern Mezmar to accept the bids for the reroofing of Fire Stations Number 6 & 7 under Bid No. 2018-11 and authorize the City Manager to negotiate and execute a contract with Argio Roofing & Construction LLC. Motion carried unanimously.

16) Consideration and possible action to approve the Public Services Contract with the Boys and Girls Club of Harlingen for Fiscal Year 2018-2019, in the amount of $115,757.00 for Teen Service Programs and authorize the City Manager to sign the contract.

Mr. Mendez, stated, the contract for the Boys and Girls Club of Harlingen is identical to the previous year and the budgeted amount was $115,757.00 for teen service programs.

Motion was made by Commissioner Uribe and seconded by Commissioner Leal to approve the Public Services Contract with the Boys and Girls Club of Harlingen for Fiscal Year 2018-2019 in the amount of $115,757.00, for Teen Service Programs and authorize the City Manager to sign the contract. Motion carried unanimously.

17) Consideration and possible action to approve a contract with the Boys and Girls Club of Harlingen for Fiscal Year 2018-2019, in the amount of $90,104.00 for Youth Service Programs and authorize the City Manager to sign the contract.

Mr. Mendez stated the contract for the Boys and Girls Club of Harlingen is identical to the previous year and the budgeted amount was $90,104.00 for youth service programs.

Motion was made by Commissioner Uribe and seconded by Commissioner De La Rosa to approve the contract with the Boys and Girls Club of Harlingen for Fiscal Year 2018-2019 in the amount of $90,104.00 for youth service programs and authorize the City Manager to sign the contract. Motion carried unanimously.

18) Consideration and possible action to approve a contract with Don Van Ramshorst, Jr. to operate, manage, and supervise the HEB Tennis Center for Fiscal Year 2018-2019, and authorize the City Manager to sign the contract.

Mr. Mendez stated the contract with Don Van Ramshorst, Jr. is for the operation, management, and supervision of the HEB Tennis Center for one year. The City will compensate Pro Shop $2,000 (75%) per month to operate the HEB Tennis Center. The City will be compensated 25% of the revenues.
Motion was made by Commissioner Uribe and seconded by Commissioner Uhlhorn to approve the contract with Don Van Ramshorst, Jr. to operate, manage, and supervise the HEB Tennis Center for Fiscal Year 2018-2019, and authorize the City Manager to sign the contract. Motion carried unanimously.

19) Consideration and possible action to approve the Fire Protection Service Contract between the City of Harlingen and the City of Primera, Texas to provide fire protection services for a cost of $122,152.90, payable in quarterly installments of $30,538.22 and authorize the Mayor to sign the contract.

Roy Rubio, Fire Chief, stated the rate for Fire Protection Services for the City of Primera is $.10 per $100.00 valuation based on the City’s 2018 Certified Net Taxable Value of $122,152,957. The City of Primera has reviewed the contract and has agreed with the contract provisions and signed the agreement. The contract is to ensure fire protection services to the community for $122,152.90, payable in quarterly installments of $30,538.22 on the following dates: Dec. 31st, 2018, June 30th, 2019, and Sept. 30th, 2019 to the City of Harlingen.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the Fire Protection Service Contract between the City of Harlingen and the City of Primera, Texas to provide fire protection services for a cost of $122,152.90, payable in quarterly installments of $30,538.22 and authorize the Mayor to sign the contract. Motion carried unanimously.

20) Consideration and possible action to approve the Fire Protection Service Contract between the City of Harlingen and the City of Palm Valley, Texas to provide fire protection services for a cost of $118,867.00 payable in quarterly installments of $29,716.75 and authorize the Mayor to sign the contract.

Roy Rubio, Fire Chief, stated the rate for Fire Protection Services for the City of Palm Valley is $ .10 per $100.00 valuation based on the City’s 2018 Certified Net Taxable Value of $118,867.00. The City of Palm Valley has agreed with the contract provisions and signed the contract. The contract is to ensure fire protection services to the community for the agreed compensation of $118,867.00, payable in quarterly installments of $29,716.75 on the following dates: Dec. 31st, 2018, Mar. 31, 2018, Jun 30th, 2019 and Sept. 30th, 2019 to the City of Harlingen.

Motion was made by Commissioner Uhlhorn and seconded by Commissioner De La Rosa to approve the Fire Protection Service Contract between the City of Harlingen and the City of Palm Valley, Texas to provide fire protection services for a cost of $118,867.00, payable in quarterly installments of $29,716.75 and authorize the Mayor to sign the contract. Motion carried unanimously.

21) Board Appointments

None

22) Executive/Closed Session on the following items:

a) pursuant to Texas Gov’t Code Sec. 552.072 to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City of Harlingen with a third person regarding the acquisition of real property for transit terminal expansion.

b) pursuant to Chapter 551, Sections 551.087, 551.071 and 551.072 of the Gov’t Code regarding commercial and financial information from a business prospect with which
the City is conducting economic development negotiations, and/or to discuss or deliberate financial or other incentives with the business prospect known as Project Development and to seek legal advice from the City Attorney regarding the subject matter.

(c) pursuant to Tex. Gov't Code Sec. 552.071(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Chapter; Tex. Gov't Code Sec. 551.072 regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City of Harlingen in negotiations with a third person; and Tex. Gov't Code Sec. 551.087(1) to discuss or deliberate regarding commercial or financial information that the City of Harlingen has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the City and with which the City is conducting economic development negotiations related to the operation of the University Articulation and Career Center.

At 6:47 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item 22 (a), (b) and (c).

Motion was made by Commissioner Uribe and seconded by Commissioner Leal to convene into executive session to discuss Item 22 (a), (b), and (c). Motion carried unanimously.

At 7:34 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

23) Citizen Communication
None

City of Harlingen

ATTEST:

Chris Boswell, Mayor

Amanda C. Elizondo, City Secretary
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consider and take action to adopt an Ordinance on Second and Final Reading to annex and to establish the initial zoning to Residential, Single Family ("R-1") District for 8.95 acres out of Block 35, Petersburg Syndicate Subdivision, located on the east side of Park Lane East, north of Spur 54. Applicant: Dustin Moore of Moore Land Surveying, LLC, c/o Daniel Dominguez

Prepared By: Rodrigo Davila, CPM
Title: Planning and Development Director
Signature:

Brief Summary:

Project Timeline

- July 15, 2018 – Voluntary Annexation Request submitted to the City; application deemed complete (ATTACHMENT I).
- August 15, 2018 – The City Commission approved a resolution directing staff to prepare a service plan for the annexation and to initiate proceedings.
- September 1, 2018 – In accordance with Statute and local law, notice of required public hearings (for the zoning and first public hearing for the annexation) published in the Valley Morning Star.
- September 12, 2018 – Public hearing was conducted by the Planning and Zoning Commission (P&Z). The P&Z Commission recommended approval to rezone the property to R-1 District upon annexation by 5 to 0 vote.
- September 19, 2018 – First Public Hearing was conducted by the City Commission.
- September 22, 2018 – In accordance with Statute and local law, notice of second public hearing published in the Valley Morning Star.
- October 3, 2018 – Second Public Hearing was conducted by the City Commission
- October 16, 2018 – City Commission approved annexation via First Ordinance Reading.
- November 7, 2018 – Pending approval of 1st ordinance reading, consideration of annexation by the City Commission via Second Ordinance Reading.

Summary

- In accordance with the Texas Local Government Code and the City Code of Ordinances, three public hearings are required and have been conducted as related to the voluntary annexation request.

- Daniel Dominguez, the applicant and property owner has requested the voluntary annexation of 8.95 acres of land. All of the subject property is outside, but adjacent to, the current city limits.

- The applicant is proposing to subdivide the subject property into a one lot residential subdivision under the name of Dominguez Subdivision. Part of the proposed subdivision (0.16 acres) is currently inside the city limits, and the east 8.95 acres is located outside the city limits and is landlocked. The Dominguez Subdivision will have frontage on Park Lane East (ATTACHMENT II).
• The developer will be responsible for all infrastructure provisions, including street development, street lights, water and wastewater services, storm sewer, and other requirements as specified under the subdivision regulations.

• Water and wastewater disposal for this subdivision is being provided through HWWS.

• Concurrent with the annexation, the subject property will be zoned to Residential, Single Family ("R-1") District. The requested zoning is consistent with the Future Land Use Plan component of the City of Harlingen Comprehensive Plan One Vision One Harlingen. (ATTACHMENT III-V).

• The Service Plan outlines the services to be provided within sixty (60) days after the effective date of annexation and the capital improvements that will begin construction within two and one-half (2-1/2) years of the effective date of the annexation (ATTACHMENT VI).

• The final step in the annexation process is the consideration by the City Commission of the second and final ordinance reading to officially annex and zone the subject property.

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**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount [ ] Yes [ ] No*  
*If no, specify source of funding and amount requested:

Finance Director’s approval: [ ] Yes [ ] No [ ] N/A

**Staff Recommendation:**

Staff recommends approval of the annexation and to rezone the property to Residential, Single Family (R-1') District upon the annexation of the property.

City Manager’s approval: [ ] Yes [ ] No [ ] N/A

**Comments:**

City Attorney’s approval: [ ] Yes [ ] No [ ] N/A
**CITY OF HARLINGEN PLANNING AND ZONING DIVISION**

**MASTER APPLICATION**

**PROPERTY INFORMATION:** (Please PRINT or TYPE)

- **Project Address:** ____________
- **Nearest Intersection:** ____________
- **(Proposed) Subdivision Name:** ____________
- **Lot:** ____________
- **Block:** ____________
- **Existing Zoning Designation:** ____________
- **Future Land Use Plan Designation:** ____________

**OWNER/APPLICANT INFORMATION:** (Please PRINT or TYPE)

- **Applicant/Authorized Agent:** ____________
- **Phone:** ____________
- **FAX:** ____________
- **Email Address (for project correspondence only):** ____________
- **Mailing Address:** ____________
- **City:** ____________
- **State:** ____________
- **Zip:** ____________
- **Property Owner:** ____________
- **Phone:** ____________
- **FAX:** ____________
- **Email Address (for project correspondence only):** ____________
- **Mailing Address:** ____________
- **City:** ____________
- **State:** ____________
- **Zip:** ____________

Select appropriate process for which approval is sought. Attach completed checklists with this application.

- **Annexation Request** .................................. No Fee
- **Administrative Appeal (ZBA)** .................. $125.00
- **Comp. Plan Amendment Request** ........... $250.00
- **Re-zoning Request** .................................. $250.00
- **SUP Request/Renewal** .................................. $250.00
- **Zoning Variance Request (ZBA)** .......... $250.00
- **PDD Request** .................................. $250.00
- **Preliminary Plat** .................................. $100.00
- **Final Plat** .................................. $50.00
- **Minor Plat** .................................. $100.00
- **Re-plat** .................................. $250.00
- **Vacating Plat** .................................. $50.00
- **Development Plat** .................................. $100.00
- **Subdivision Variance Request** .......... $25.00 (each)

Please provide a basic description of the proposed project:

- **7 LOT# HEADLANDER TO 1 SINGLE FAMILY LOT**

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

- **Applicant's Signature:** ____________
- **Date:** ____________
- **Property Owner(s) Signature:** ____________
- **Date:** ____________

Accepted by: ____________

Date: ____________

[Stamp: RECEIVED]
RE-ZONING REQUEST
SUBMITTAL CHECKLIST

Please submit the following items along with the completed master application and appropriate fees. The project cannot be scheduled for consideration unless all items are marked complete. Citations come from the Zoning Ordinance.

Complete

- A metes and bounds description or survey plat of the tract(s) in which the re-zoning is requested.
- City and School Tax Certificates
- A written statement describing the proposed use(s) of the subject property (can be provided on Master Application).
- Any other information (elevation drawings, pictures, etc.) in support of the subject request.

- I understand that I am requesting an amendment to the City’s Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.
- I understand that in accordance State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
  - A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
  - Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.
- I understand that while all requirements for the submittal of a re-zoning request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.

Owner: [Name]
Address: [Address]
Phone/Fax: [Phone/Fax]
Signature: [Signature]

Property is now approved on file. Requests to change from Undesignated to Single Family Residential.
Request for voluntary annexation and establish the initial zoning to Residential, Single Family ("R-1") District for 8.95 acres out of Block 35, Petersburg Syndicate Subdivision, located on the east side of Park Lane East, north of Spur 54. Applicant: Dustin Moore of Moore Land Surveying, LLC, c/o Daniel Dominguez.
A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.
Attachment VI

See attached service plan.
ORDINANCE NO. 18-

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF HARLINGEN THROUGH ANNEXATION AND ESTABLISHING THE INITIAL ZONING TO R-1 DISTRICT CONSISTING OF 8.95 ACRES OUT OF BLOCK 35, PETERSBURG SYNDICATE SUBDIVISION, LOCATED ON THE EAST SIDE OF PARK LANE EAST NORTH OF SPUR 54; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, it is deemed to be in the best interest of the City of Harlingen, Texas to consider the annexation and zoning of certain land area hereinafter described; and

WHEREAS, said land area is adjacent to and abutting upon the present city limits of the City of Harlingen, and is within the exclusive extra-territorial jurisdiction of the City of Harlingen; and

WHEREAS, the Elective Commission has heretofore held two public hearings at a meeting of the Elective Commission at the City Commission Room at City Hall, 118 E. Tyler Avenue, Harlingen, Texas on September 19, 2018 and October 3, 2018 pursuant to the provisions of Chapter 43, Texas Local Government Code, as amended; and

WHEREAS, at such hearings all interested persons were heard concerning the advisability of annexing and zoning such tracts of land; and

WHEREAS, such public hearing was duly conducted at the time and public place indicated above,

WHEREAS, the Elective Commission of the City of Harlingen, finds that the inclusion of such additional area will be of benefit to the City of Harlingen; now therefore

BE IT ORDAINED BY THE CITY OF HARLINGEN

That the corporate boundary limits of the City of Harlingen, Texas are hereby extended and
as shown on Exhibit “A” pursuant to the provisions of Chapter 43, Texas Local Government Code to
include the areas described as:

A 8.95 acres out of Block 35, Petersburg Syndicate Subdivision,
located on the east side of Park Lane East north of Spur 54.

All of which property is located in Cameron County, Texas and said property lying adjacent
to and abutting upon the current boundaries of the City of Harlingen, Texas and within the
exclusive extraterritorial jurisdiction of the City of Harlingen; and

That the territory hereinabove described from shall be zoned upon annexation to
Residential, Single Family (“R-1”) and after the date hereof shall be subject to all the acts,
ordinances, resolutions and regulations of the City of Harlingen, Texas and all ad valorem and
other applicable taxes to the area.

A service plan prepared pursuant to Section 43.056 of Chapter 43, Texas Local Government
Code providing for the extension of municipal services into the area hereby annexed is attached
hereto as Exhibit “A”, and said service plan is hereby in all things approved and adopted. The
area identified by the property description compromises a total of approximately 8.95 acres and
is identified on the map attached to the service plan.

FINALLY ENACTED this _____day of ______________, 2018 such date being the date of
the second presentation of said Ordinance to the said Elective Commission. This Ordinance was
finally enacted at a regular meeting of the Elective Commission of the City of Harlingen, Texas on
November 7, 2018 at which a quorum was present and which was held in accordance with TEXAS
GOVERNMENT CODE, CHAPTER 551, as amended.

CITY OF HARLINGEN
Chris Boswell, Mayor

ATTEST:

Amanda Elizondo, City Secretary
DESCRIPTION OF TRACT:

A 8.95 acres out of Block 35, Petersburg Syndicate Subdivision, located on the east side of Park Lane East, north of Spur 54

PREPARED BY
CITY OF HARLINGEN PLANNING AND ZONING DEPARTMENT

DATE COMPLETED: September 13, 2018
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INTRODUCTION

In accordance with Chapter 43, Section 43.056, Texas Local Government Code, "governing body of the City proposing the annexation shall direct its planning or other appropriate department to prepare a service plan that provides for extension of municipal services into each area to be annexed". It is for this reason that this plan has been prepared.

Texas Local Government Code Section 43.056(t), requires that a service plan may not: 1) require the creation of another political subdivision; 2) require a landowner in the area to fund the capital improvement necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or 3) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of the fire and police protection and emergency services provided within the corporate boundaries of the municipality before annexation.

The plan is divided into three sections that will illustrate the area proposed for annexation and explain the quality and quantity of services to be delivered to the proposed annexed area. The first section is a map of the area(s) to be annexed. The second and third sections consist of description of services that will be delivered within sixty (60) days after the effective date of annexation and the capital improvements that will begin construction within two and one-half (2 ½) years of the effective date of annexation.
Annexation Area Map

Annexation of 8.95 acres out of Block 35, Petersburg Syndicate Subdivision.

Boundary lines
- Proposed Annexation
- Harlingen City Limits

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 07/26/18.
Services to be Provided within 60 days of Annexation

Fire:
The Harlingen Fire Department will provide fire protection on effective date of annexation using present personnel and equipment. Additional facilities, fire apparatus, and personnel will be requested as population and geographic size warrants.

Police:
Patrolling and on-call police protection available on effective date of annexation using present personnel and equipment. Patrol positions will be added when population warrants.

Solid Waste Collection:
City garbage collection services will be provided to all residential and commercial customers within the annexed areas in accordance with adopted city ordinances.

Brush and Debris collections services will be made available to all residential and commercial customers in accordance with adopted city ordinances within the annexed area.

As per Texas Local Government Code 43.056, before the second anniversary of the date an area is included within the corporate boundaries of a municipality by annexation, the municipality my not prohibit the collection of solid waste in the area by a privately owned solid waste management service provider. After that time period, solid waste services provided by the City becomes mandatory.

Water and Wastewater:
Routine maintenance of water and wastewater facilities, if any, in the annexed area.

Water and wastewater facilities for domestic and commercial uses will be available at rates according to policies of the Harlingen Waterworks Department from existing lines not within the service area of another water or wastewater utility on the effective date of annexation.

Streets and Street Lighting:
There are no streets within the proposed annex area.

Operation and Maintenance of Parks, Playgrounds & Swimming Pools:
Access to all public parks, playgrounds, and swimming pools, on effective date of annexation.

Operation and Maintenance of Publicly Owned Facilities & Buildings:
Maintenance of any publicly owned facilities, buildings, or services will begin within 60 days of the effective date of annexation.
Capital Improvements to be Completed within 2 ½ Years of Annexation

Fire:
No capital improvement funds or equipment requested at this time. Additional facilities, fire apparatus, and personnel will be requested as population and geographic size warrants.

Police:
None at this time. Additional personnel and equipment will be requested as population and geographic size warrants.

Solid Waste Collection:
City garbage collection services will be provided to all residential and commercial customers within the annexed areas in accordance with adopted city ordinances.

Brush and Debris collection services will be provided to all residential and commercial customers in accordance with adopted city ordinances within the annexed area.

As per Texas Local Government Code 43.056, before the second anniversary of the date an area is included within the corporate boundaries of a municipality by annexation, the municipality may not prohibit the collection of solid waste in the area by a privately owned solid waste management service provider. After that time period, solid waste services provided by the City becomes mandatory.

Water and Wastewater:
New water and wastewater lines of the Harlingen Waterworks will be extended to areas not within the service area of another water or wastewater utility by developers as land becomes subdivided in accordance with City and Waterworks ordinances and policies. Landowners in the area are not required to fund water and wastewater capital improvements necessary to provide full municipal services that are inconsistent with Texas Local Government Code Chapter 395 unless otherwise agreed to by the landowner.

Streets and Street Lighting:
Complete Streets (i.e. curb and gutter, signage, striping, street lights, storm drainage, etc,) is to be installed and/or constructed by the developer according to city policies when land is subdivided.

Parks, Playgrounds & Swimming Pools:
None

Publicly Owned Facilities & Buildings:
None
ORDINANCE NO. 2018-__

AN ORDINANCE OF THE CITY OF HARLINGEN, TX. AMENDING CHAPTER 28, "LICENSES, PERMITS AND MISCELLANEOUS REGULATIONS," BY ADDING A NEW ARTICLE XI, "DOCKLESS VEHICLE PERMITS," ESTABLISHING FEES AND REGULATIONS FOR A DOCKLESS VEHICLE PERMIT PROGRAM, PROVIDING A SAVINGS CLAUSE AND EFFECTIVE DATE; AND PROVIDING A PENALTY NOT TO EXCEED $500.

Section 1. The City of Harlingen Code of Ordinances shall be amended by adding the following:

ARTICLE XI - DOCKLESS VEHICLE PERMIT

Sec. 28-600 - Definitions

(a) For purposes of this section, terms not defined here shall be construed as in ordinary, everyday usage.

1) Director means the director of the department designated by the city manager to enforce and administer this article and includes representatives, agents, or department employees designated by the director.

2) Dockless Vehicle means a bicycle, an electric bicycle, or an electric motor-assisted scooter, pursuant to the definitions set forth in Texas Transportation Code, Sections 541.201 and 551.351, that can be located and unlocked using a smartphone app.

3) Operator means an individual or company that has been issued an operating authority permit under this article.

4) Rebalance means moving dockless vehicles from an area of low demand to an area of high demand.

1) Residential area means a residential district as defined in city code, or a planned development district or conservation district with residential base zoning.

Sec. 28-601 - General Authority and Duty of Director

The Director shall implement and enforce this article and may by written order establish such rules or regulations, consistent with this article and state or federal law, as s/he determines are necessary to discharge his or her duty under, or to affect the policy of, this article.

Sec. 28-602 - Operating Authority Permit

A person commits an offense if, within the city, s/he operates, or causes or permits the operation of, a dockless vehicle service without a valid operating authority permit issued under this article.

Sec. 28-603 - Application for Operating Authority Permit
a) To obtain an operating authority permit, a person shall make application in the manner prescribed by the Director. The applicant must be the person who will own, control, or operate the proposed dockless vehicle program.

b) An applicant shall file with the Director a verified application statement, to be accompanied by a non-refundable application fee, containing the following:

1) the form of business of the applicant and, if the business is a corporation or association, a copy of the documents establishing the business and the name and address of each person with a 20 percent or greater ownership interest in the business;

2) the verified signature of the applicant;

3) the address of the fixed facilities to be used in the operation, if any, and the address of the applicant's corporate headquarters, if different from the address of the fixed facilities;

4) the name of the person designated by the applicant to receive on behalf of the applicant any future notices sent by the city to the operator, and that person's contact information, including a mailing address, telephone number, and email or other electronic address;

5) documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applicant with the liability insurance required by this article;

6) documentary evidence of payment of ad valorem taxes on property within the city, if any, to be used in connection with the operation of the proposed dockless vehicle program;

7) documentary evidence from a bonding or insurance company or a bank indicating that the bonding or insurance company or bank has bound itself to provide the applicant with the performance bond or irrevocable letter of credit required by this article;

8) the number and types of dockless vehicles to be operated; and

9) an agreement to indemnify the city.

c) An operating authority permit may be renewed following the process in this section.

d) The initial application for an operating authority permit must be accompanied by an application fee of $500. Applications to renew an operating authority permit must be accompanied by a renewal application fee of $300.

Sec. 28-604 – Changes to Information in Operating Authority Application

a) Any changes to the information provided in the operating authority permit application must be reported to the Director, in the manner prescribed by the Director, within 10 days of the change.
b) If the information reported to the Director under this section includes an increase in the number of dockless vehicles, any additional vehicle fees due under Section 28-603 must be submitted to the Director simultaneously with the change in information.

Sec. 28-605 - Expiration of Operating Authority Permit

An operating authority permit expires one year from the date it is issued.

Sec. 28-606 - Refusal to Issue or Renew Operating Authority Permit

a) The Director shall refuse to issue or renew an operating authority permit if the applicant:

1) intentionally or knowingly makes a false statement as to a material matter in an application for a permit or permit renewal; or

2) has been convicted twice within a 12-month period for a violation of this article regarding the deployment of a dockless vehicle or the rebalancing or removal of a dockless vehicle, or a rule or regulation adopted under this article regarding the deployment of a dockless vehicle or the rebalancing or removal of a dockless vehicle, or has had an operating authority permit revoked within two years of the date of application.

b) If the Director determines that a permit should be denied, the Director shall notify the applicant or operator in writing that the application is denied and include in the notice the specific reason or reasons for denial and a statement informing the applicant or operator of the right to, and the process for, appeal of the decision.

Sec. 28-607 - Suspension or Revocation of Operating Authority Permit

a) Suspension. The following regulations apply to the suspension of an operating authority permit:

1) The Director may suspend an operating authority permit if the Director determines that the operator failed to comply with a request to remove a dockless vehicle or a request to rebalance dockless vehicles issued by the Director within the time specified in the order.

2) Suspension of an operating authority permit does not affect the expiration date of the permit.

b) Revocation. The following regulations apply to the revocation of an operating authority permit:

1) The Director shall revoke an operating authority permit if the Director determines that the operator has:

   i) made a false statement as to a material matter in the application concerning the operating authority permit;
ii) failed to maintain the insurance required by this article;

iii) failed to maintain the performance bond or irrevocable letter of credit required by this article;

vi) operated dockless vehicles that were not authorized by the operating authority permit; or

x(v) failed to pay a fee required by this article.

2) After revocation of an operating authority permit, an operator is not eligible for another permit for a period of up to two years, depending on the severity of the violation resulting in the revocation.

Sec. 28-608 - Appeals.

Any person whose application for an operating authority permit, or renewal of an operating authority permit, is denied by the Director, or an operator whose operating authority permit has been revoked or suspended by the Director, will have the right to appeal to the City Parks and Recreation Advisory Board within five (5) calendar days of written staff decision. The appeal should be in writing in the form of a letter to the city secretary stating the reasons why such staff decision is unjust and request a hearing in front of the city commission. The item will be taken to the next regular city commission meeting for a final decision.

Sec. 28-609 - Nontransferability

An operating authority permit is not transferable. This regulation should not be construed to impede the continuing use of trade names.

Sec. 28-610 - Operations

a) Each operator shall provide dockless vehicles to accommodate a wide range of users.

b) Each dockless vehicle permitted under this article must display the emblem of the operator along with a unique identification number.

c) Dockless vehicles must not display third party advertising.

d) Dockless vehicles must meet all requirements of local, state, and federal law. Bicycles must meet all industry safety standards.

e) Dockless vehicles must be high quality and sturdily built to withstand the effects of weather and constant use as is customary for such vehicles for five years.

f) Dockless vehicles must be well maintained on a regular basis as is customary for the upkeep of such vehicles to ensure their safety for the public, and in good riding condition.

g) Each dockless vehicle permitted under this article must be equipped with active
global positioning system technology.

h) Spoken word alarm systems are prohibited on dockless vehicles.

i) Operators shall maintain a staffed operations center.

j) Operators shall maintain a 24-hour customer service number posted on each dockless vehicle for customers and citizens to report safety concerns, make complaints, ask questions, or request a dockless vehicle be relocated.

k) Operators shall rebalance dockless vehicles at least once per week.

l) Operators shall provide the Director with contact information for someone who can rebalance and relocate dockless vehicles. The operator shall rebalance or relocate dockless vehicles within four hours of receiving notification on weekdays between 6:00 a.m. and 6:00 p.m. (excluding holidays) and within 12 hours of receiving notice at all other times. An operator shall notify the Director within 24 hours of a change of contact information.

m) An operator shall remove any inoperable dockless vehicle, or a dockless vehicle that is not safe to operate, from the right-of-way within 24 hours of notice from the Director. A dockless vehicle removed from the right-of-way in accordance with this subsection must be repaired before it is returned to revenue service.

n) Any dockless vehicle retrieved from a stream, lake, fountain, or other body of water will be disposed of and/or permanently removed from rental circulation.

o) If the city incurs any costs addressing or abating any violations of this section, or incurs any costs of repair or maintenance of public property, the operator shall reimburse the city for the costs within 30 days of receiving written notice from the Director. Failure to reimburse may result in a lien being placed on the property in favor of the city.

p) An operator shall not place or attach any personal property (other than dockless vehicles), fixtures, or structures in the public right-of-way without the separate written permission of the Director. Any permission to place items in the public right-of-way must be incorporated into the permit.

q) An operator shall not adversely affect the property of any third parties during the use of city property or the public right-of-way.

r) An operator shall educate customers regarding the law applicable to riding, operating, and parking a dockless vehicle. An operator’s mobile application must provide information notifying the user that:

1) minors must wear helmets while riding a bicycle and while riding a motor assisted scooter;

2) dockless vehicles must be parked legally and properly;

3) bicyclists and motor assisted scooters must yield to pedestrians on sidewalks and trails; and
4) bicycles should be ridden on bike lanes, trails and roadways, during safe riding conditions and sidewalk use should be limited.

5) The number of dockless vehicles in a fleet must be commensurate with the expected level of service. Vehicle numbers for the purpose of city administration shall be determined by the Director.

Sec. 28-211 – Dockless Vehicle Parking, Deployment, and Operation

a) Dockless vehicles may not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk or in any manner that would reduce the minimum clear width of a sidewalk to less than 48 inches.

b) Dockless vehicles may not be parked in a manner that would impede vehicular traffic on a street or alley.

c) Dockless vehicles may not be parked in a manner that would impose a threat to public safety or security.

d) Dockless vehicles may not be parked on a public street without specific permission from the Director.

e) Dockless vehicles may not be deployed on a block where the sidewalk is less than 96 inches in width, or on a block that does not have sidewalks. The Director may determine other blocks where deploying dockless vehicles is prohibited.

f) Dockless vehicles must be deployed on a sidewalk or other hard surface, at a bicycle rack, or at a city-owned location. Dockless vehicles may only be deployed on private property with the permission of the property owner.

g) Dockless vehicles must stand upright while parked.

h) Dockless vehicles may not be parked within five feet of a crosswalk or curb ramp, unless given specific permission by the Director.

i) Dockless vehicles may not be parked in a way that blocks:
   a. Transit stops, shelters, or platforms.
   b. Commercial loading zones.
   c. Railroad tracks or crossings.
   d. Passenger loading zones or valet parking service areas.
   e. Disabled parking zones.
   f. Street furniture that requires pedestrian access (for example, benches or parking pay stations).

g) Building entryways.

h) Vehicular driveways.

j) Dockless vehicles parked along multi-use trails may only be parked at trailheads or other areas identified by the Director.
k) Dockless vehicles that are parked in an incorrect manner must be re-parked or removed by the operator within four hours of receiving notice from the Director on weekdays between 6:00 a.m. and 6:00 p.m. (excluding holidays) and within 12 hours of receiving notice from the Director at all other times.

l) A dockless vehicle that is parked in a residential area may remain in the same location for up to 48 hours as long as it is parked in accordance with this section. An operator shall relocate or rebalance a dockless vehicle parked in a residential area after receiving a citizen request or complaint in accordance with the timeframes specified in Section 28-610.

m) The Director (and/or designee) may remove and store any dockless vehicle that is left parked at the same location for seven or more consecutive days if the Director has sent the operator a notification to rebalance the dockless vehicle.

   1) The operator is responsible for the costs of removal and storage.
   2) The Director shall invoice the operator for the cost of removal and storage.
   3) Any dockless vehicle that remains unclaimed with the city for 60 days is subject to city confiscation.
   4) The Director may identify designated dockless vehicle parking zones. Subject to advance approval of the Director, an operator may indicate virtual dockless vehicle parking areas with paint or decals where appropriate in order to guide riders to preferred parking zones in order to assist with orderly parking of dockless vehicles throughout the city.
   5) Every person riding a dockless vehicle upon the streets of the city shall be subject to provisions of all laws and ordinances applicable to the operator of any other vehicle, except those provisions of laws and ordinances which, by their very nature, can have no application; provided however, it shall be unlawful to ride a dockless vehicle on a public sidewalk.
   5) Any person riding a dockless vehicle upon a sidewalk shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Sec. 28-212 - Insurance Requirements

a) An operator shall procure and keep in full force and effect no less than the insurance coverage required by this section through a policy or policies written by an insurance company that:

   1) is authorized to do business in the State of Texas;
   2) is acceptable to the city; and
   3) does not violate the ownership or operational control prohibition described in Subsection (e) of this section.
b) The insured provisions of the policy must name the city and its officers and employees as additional insureds, and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a dockless vehicle.

c) An operator shall maintain the following insurance coverages:

1) The commercial general liability insurance must provide single limits of liability for bodily injury (including death) and property damage of $1 million for each occurrence, with a $2 million annual aggregate.

2) If an operator will utilize motor vehicles in its operations, the business automotive liability insurance must cover owned, hired, and non-owned vehicles, with a combined single limit for bodily injury (including death) and property damage of $500,000 per occurrence.
   a. Worker's compensation insurance with statutory limits.
   b. Employer's liability insurance with the following minimum limits for bodily injury by:
      i) accident, $500,000 per each accident; and
      ii) disease, $500,000 per employee with a per policy aggregate of $500,000.

3) Insurance required under this article must:
   a) include a cancellation provision in which the insurance company is required to notify the Director in writing not fewer than 30 days before cancelling the insurance policy (for a reason other than non-payment) or before making a reduction in coverage;
   b) include a cancellation provision in which the insurance company is required to notify the Director in writing not fewer than 10 days before cancelling for non-payment;
   c) cover all dockless vehicles during the times that the vehicles are deployed or operating in furtherance of the operator's business;
   d) include a provision requiring the insurance company to pay every covered claim on a first-dollar basis;
   e) require notice to the Director if the policy is cancelled or if there is a reduction in coverage; and
   f) comply with all applicable federal, state, and local laws.
   g) No person who has a 20 percent or greater ownership interest in the operator may have an interest in the insurance company.
h) An operator may not be self-insured.

i) Any insurance policy required by this article must be on file with the city within 45 days of the issuance of the initial operating authority permit, and thereafter within 45 days of the expiration or termination of a previously issued policy.

Sec. 28-213 - Data Sharing

a) An operator shall cooperate with the city in the collection and analysis of aggregated data concerning its operations.

b) An operator shall provide a quarterly report to the Director that includes:

1. Total number of rides for the previous quarter.
2. Total number of vehicles in service for the previous quarter.
3. Number of rides per vehicle per day.
4. Anonymized aggregated data taken by the operator's dockless vehicles in the form of heat maps showing routes, trends, origins, and destinations.
5. Anonymized trip data taken by the operator's dockless vehicles that includes the origin and destination, trip duration, and date and time of trip.

c) An operator shall provide other reports as needed at the Director's request.

Sec. 28-214 - Vehicle Fee

An operator shall pay a vehicle fee to the Harlingen Parks and Recreation Department as follows:

<table>
<thead>
<tr>
<th>Number of Dockless Vehicles</th>
<th>Fee</th>
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</thead>
<tbody>
<tr>
<td>1-100</td>
<td>$1000</td>
</tr>
<tr>
<td>101-250</td>
<td>$2500</td>
</tr>
<tr>
<td>250-400</td>
<td>$4000</td>
</tr>
<tr>
<td>Fee per dockless vehicle in excess of 400</td>
<td>$20</td>
</tr>
</tbody>
</table>

Sec. 28-215 - Performance Bond or Irrevocable Letter of Credit

Before issuance of an operating authority permit, the operator shall give the Director a performance bond or an irrevocable letter of credit approved as to form by the city attorney.

a. A bonding or insurance company authorized to do business in the State of Texas and acceptable to the city must issue the performance bond. A bank authorized to do business in the State of Texas and acceptable to the city must issue the
The performance bond or irrevocable letter of credit must list the operator as principal and be payable to the city.

c. The performance bond or irrevocable letter of credit must remain in effect for the duration of the operating authority permit.

d. The amount of the performance bond or irrevocable letter of credit must be at least $10,000.

e. Cancellation of the performance bond or irrevocable letter of credit does not release the operator from the obligation to meet all requirements of this article and the operating authority permit. If the performance bond or irrevocable letter of credit is cancelled, the operating authority permit shall be suspended on the date of cancellation and the operator shall immediately cease operations until the operator provides the Director with a replacement performance bond or irrevocable letter of credit that meets the requirements of this article.

f. The city may draw against the performance bond or irrevocable letter of credit or pursue any other available remedy to recover damages, fees, fines, or penalties due from the operator for violation of any provision of this article or the operating authority permit.

Sec. 28-216 - Enforcement

(a) The Director may, with or without notice, inspect any dockless vehicle operating under this article to determine whether the dockless vehicle complies with this article, rules and regulations established under this article, or other applicable laws.

(b) The Director shall enforce this article. Upon observing a violation of this article or the rules or regulations established by the Director, the Director shall take necessary action to ensure effective regulation of dockless vehicles.

Sec. 28-217 - Offenses

(a) A person commits an offense if s/he violates or attempts to violate a provision of this article, or a rule or regulation established by the Director under this article, that is applicable to a person. A culpable mental state is not required for the conduct commission of an offense under this article unless the provision defining the conduct expressly requires a culpable mental state. A separate offense is committed each day in which an offense occurs.

(b) Prosecution for an offense under Subsection (a) does not prevent the use of other enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.

Section 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed $500.

Section 3. That applicable City Code shall remain in full force and effect, save and
Section 4. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, illegal, or prohibited under applicable law, such provision shall be excluded to the extent of such invalidity, illegality, or prohibition; all other terms hereof shall remain in full force and effect.

Section 5. That the terms and provisions of this ordinance are severable and are governed by applicable City Code.

Section 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the City of Harlingen and the State of Texas, and it is accordingly so ordained.

FINALLY ENACTED THIS ___ day of November, 2018 at a Regular Meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

CITY OF HARLINGEN

ATTEST: ____________________________
Chris Boswell, Mayor

Amanda C. Elizondo, City Secretary

APPROVED AS TO FORM: ____________________________
Ric Navarro, City Attorney
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consider and take action to approve a request from Veronica Hunt, Advisor for the Harlingen High School Student Council to close the streets noted below on Thursday, November 8, 2018 from 5:30 p.m. to 7:30 p.m. for their parade festivities and burning of the "H."

Prepared By (Print Name): Jeffry A. Adickes
Title: Chief of Police
Signature:

Brief Summary:
Veronica Hunt, Advisor for the Harlingen High School Student Council is requesting to close the streets noted below on Thursday, November 7, 2018 from 5:30 p.m. to 7:30 p.m. for their parade and burning of the "H"

• North 13th Street (just North of the Rear Parking Lot of the school)
• North 13th Street and Marshall Avenue
• Marshall Avenue from 13th Street to North 7th Street
• Marshall Avenue and 9th Street
• 7th Street and Village Drive
• North 7th Street (just North of Village Drive)

The streets closures will ensure safety of the attendees.

The Assistant Fire Chief has reviewed this request and provided his approval.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount for this purpose?  
*If no, specify source of funding and amount requested: N/A

Finance Director’s approval:

Staff Recommendation:
For Street Closures ONLY, Fire Chief’s approval:

City Manager’s approval:

Comments:

City Attorney’s approval:

form revised 01/26/09
TO: Chief of Police

FROM: Sergio Ruiz #4110

RE: Street Closure Request

Requestor: HCISD
Date: Thursday, November 08, 2018
Time: 5:30 to 7:30pm
Location: Harlingen High School

Description: The Harlingen High School Student Council will be hosting a Parade that will take place in the named streets above at approximately 6:00 PM. The students will walk around the school and then walk back into the main gym for a pep rally. The parade and pep rally should end at approximately 7:30 PM. The students will then individually drive themselves to 2302 N. 21st Street, Harlingen, TX 78550, Harlingen School of Health Professions for the Burning of the “H”.

Comments: The Harlingen High School is requesting to block off N.13th St (just north of the Rear Parking Lot of the School), N.13th St and Marshall Ave, Marshall Ave from 13th St to N 7th St, Marshall Ave and 9th St, 7th St and Village Dr and N 7th St (Just North of Village Dr). SRO T. Juarez and Rosales will be assisting with traffic Control.

Recommendation: I am recommending for the street closure to be granted and barricades be provided by the Street Department on the day specified by the request. A copy of the request and map will turned in with the IDC.

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<tr>
<th>OFFICER / EMPLOYEE</th>
<th>SIGNATURE</th>
<th>DATE</th>
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</thead>
<tbody>
<tr>
<td>Sergio Ruiz #4110</td>
<td></td>
<td>10/10/2018</td>
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<tr>
<td>SERGEANT / SUPERVISOR</td>
<td></td>
<td>10/10/18</td>
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<tr>
<td>COMMANDER / MANAGER</td>
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<td>DEPUTY CHIEF</td>
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<td>ASSISTANT CHIEF</td>
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<td>CHIEF OF POLICE</td>
<td></td>
<td>10/10/18</td>
</tr>
</tbody>
</table>
Veronica Hunt,
Harlingen High School Student Council
1201 East Marshall Avenue
Harlingen, Texas 78550

The Honorable Chris Boswell
Mayor, City of Harlingen
118 East Tyler Avenue
Harlingen, Texas 78550

October 8, 2018

Dear Mayor Boswell:

The Harlingen High School Student Council would like to invite you and the citizens of Harlingen to celebrate our annual Homecoming festivities. This year’s events will take place Thursday, November 8th and Friday, November 9th. On Thursday, the HHS Student Council will host a parade and burning of the “H”, and on Friday, the Harlingen Cardinals will take on the Brownsville Rivera High Raiders at Boggus Stadium at 7:30 PM.

As with years past, we are asking for the city’s help with the street closures, including portions of Seventh Street, Thirteenth Street, and Marshall. I have included a map for your review. Also, we are requesting traffic support as well as barricades to close the streets on the parade route during the event. We appreciate all you do to make this celebration a success. If you need further information, please do not hesitate to contact me by phone at 956-579-9645 or by email at veronica.hunt@hcisd.org.

In the event that I am not available, please contact Mrs. Chrissy Daniels by phone at 956-572-3945 or chrissy.daniels@hcisd.org.

Thank you again for all your help.

Respectfully,

Veronica Hunt,
Advisor, HHS Student Council
Meeting Date: November 7, 2018

**Agenda Item:**
Consider and take action to approve a request from the Rafael Kirkpatrick with Westbrook Clinic for street closures from 7:30 a.m. to 11:00 a.m. on Saturday, December 1, 2018 for their 2nd Annual “Adelante Run” Event.

**Prepared By (Print Name):** Jeffry A. Adickes  
**Title:** Chief of Police

**Brief Summary:**
Rafael Kirkpatrick with Westbrook Clinic is requesting the closure of the following streets for their 2nd Annual “Adelante Run” for HIV/AIDS Awareness & Prevention to benefit Valley AIDS Council on Saturday, December 1, 2018, from 7:30 a.m. to 11:00 a.m.:
- West Lincoln Avenue (westbound right lane/south mall parking lot exit (across Panda Express/IHOP)
- West Lincoln Avenue / Dixieland Road
- Haverford Avenue / Dixieland Road
- Adrian Avenue / Dixieland Road
- Garrett Road / Dixieland Road

The street closures will help to ensure the safety of the participants/visitors participating/attending this event.

The Fire Chief has reviewed this request and provided his approval.

**Funding (if applicable):**
Are funds specifically designated in the current budget for the full amount:  
Yes ☐ No ☐  
*If no, specify source of funding and amount requested: N/A

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

**Staff Recommendation:**
Staff recommends approval.

For Street Closures ONLY, Fire Chief’s approval:  
X Yes ☐ No ☐ N/A

City Manager’s approval:  
Yes ☐ No ☐ N/A

**Comments:**

City Attorney’s approval:  
Yes ☐ No ☐ N/A

form revised 01/26/09
TO: Chief of Police

FROM: Officer Orlando Gonzales #3036

DATE: October 16, 2018

RE: Street Closure Request – 2nd Annual “Adelante Run” - 12/01/2018

Mr. Rafael Kirkpatrick with Westbrook Clinic is hosting their 2nd Annual "Adelante Run" for HIV/AIDS Awareness & Prevention to benefit Valley Aids Council. This event is scheduled for Saturday, December 1st, 2018. The start time is at 7:30 A.M and scheduled to end at approximately 11:00 A.M. The 5K run/walk/roll will start and finish on the Valle Vista Mall parking lot located at 2020 S. Expressway 83 Harlingen, Texas 78550. The temporary closure of the Dixieland Road northbound right lane is being requested to ensure the safety of all the 5K participants.

Once started, the race will continue through the Valle Vista Mall parking lot. Participants will approach and exit the south mall parking lot exit (across Panda Express / IHOP) and continue on the westbound right hand lane towards Dixieland Road. Participants will then turn left on Dixieland Road continuing southbound on Dixieland Road on the northbound right lane. A sidewalk travels alongside this lane for majority of the route. Participants will continue southbound on this lane towards the turnaround point near Dixieland Lake. At the turnaround point, they will continue northbound on the same lane leading back to the Valle Vista Mall parking lot. (see attached map)

We are recommending the assignment of 6 Police Officers to be assigned for this event for traffic control. They would be stationed at:

- West Lincoln Avenue (westbound right lane / south mall parking lot exit (across Panda Express / IHOP)
- West Lincoln Avenue / Dixieland Road
- Haverford Avenue / Dixieland Road
- Adrian Avenue / Dixieland Road
- Garrett Road / Dixieland Road
- Police Unit to lead participants to 1.5 mile turning point (Dixieland Lake), then wait and follow the last participant to the finish line

Mr. Kirkpatrick advised they will be providing their own traffic cones.
Good Morning Frances Pena my Name is Rafael Kirkpatrick I'm reaching out to you because officer Diaz mentioned that I need to request a street to be closed for an upcoming 5k event in December 1" in Harlingen Tx. Our 5k will take place and start at Valle Vista Mall and the route map which I have attached. I'm requesting if we can close one of the 2 way lane on Dixieland street for safety purposes. Please if you have any additional questions feel free to contact me at my cell (956) 466-8487.

Rafael Kirkpatrick CphT B.A.
Westbrook Pharmacy.
2306 Camelot Plaza
Harlingen TX. 78550
Phone number: (956)428-2653 ext. 4861
Direct Phone number (956) 507-4861
Pharmacy cell # (956) 244-0016
Fax number: (956)428-0056
pharmacy@westbrookclinic.org

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TO: Chief of Police
FROM: Officer Orlando Gonzales #3036
DATE: October 16, 2018

RE: Street Closure Request – 2nd Annual “Adelante Run” - 12/01/2018

Mr. Rafael Kirkpatrick with Westbrook Clinic is hosting their 2nd Annual “Adelante Run” for HIV/AIDS Awareness & Prevention to benefit Valley Aids Council. This event is scheduled for Saturday, December 1st, 2018. The start time is at 7:30 A.M and scheduled to end at approximately 11:00 A.M. The 5K run/walk/roll will start and finish on the Valle Vista Mall parking lot located at 2020 S. Expressway 83 Harlingen, Texas 78550. The temporary closure of the Dixieland Road northbound right lane is being requested to ensure the safety of all 5K participants.

Once started, the race will continue through the Valle Vista Mall parking lot. Participants will approach and exit the south mall parking lot exit (across Panda Express / IHOP) and continue on the westbound right hand lane towards Dixieland Road. Participants will then turn left on Dixieland Road continuing southbound on Dixieland Road on the northbound right lane. A sidewalk travels alongside this lane for majority of the route. Participants will continue southbound on this lane towards the turnaround point near Dixieland Lake. At the turnaround point, they will continue northbound on the same lane leading back to the Valle Vista Mall parking lot. (see attached map)

We are recommending the assignment of 6 Police Officers to be assigned for this event for traffic control. They would be stationed at;
- West Lincoln Avenue (westbound right lane / south mall parking lot exit (across Panda Express / IHOP)
- West Lincoln Avenue / Dixieland Road
- Haverford Avenue / Dixieland Road
- Adrian Avenue / Dixieland Road
- Garrett Road / Dixieland Road
- Police Unit to lead participants to 1.5 mile turning point (Dixieland Lake), then wait and follow the last participant to the finish line

Mr. Kirkpatrick advised they will be providing their own traffic cones.
2nd Annual “Adelante Run”
Saturday, December 1st, 2018
7:30 A.M.

Start / Finish
Patrol Unit
Patrol Unit
Patrol Unit
Patrol Unit
Patrol Unit
Turnaround Point
Valle Vista Mall
2018
5K Run
France,
Fire Chief Rubio just called for you. He advised that the Fire Dept. is ok with the street closure of W. Lincoln on 12/1/18 for the Run.

Thank You

Nora Alfaro, Admin. Asst. - Fiscal
HARLINGEN POLICE DEPT.
1018 Fair Park Blvd., Harlingen, TX 78550
(956) 216-5425 Office
(956) 216-5681 Fax
email: noraa@harlingenpolice.com

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AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: 11/07/2018

Agenda Item:
Consideration and possible action to approve a refund of property taxes paid by Wells Fargo Real Estate Tax Service on behalf of Killmer James Patrick on account # 18-4038-0060-0070-00.

Prepared By (Print Name): Elvia Treviño
Title: Finance Director
Signature:

Brief Summary:
This refund request in the amount of $792.79 for account # 18-4038-0060-0070-00 is due to adding a 100% exempt veteran’s exemption for year “2017”.

Total amount of refund requested is $792.79.
Refunds over $500.00 require Commission approval.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount for this purpose?  
*If no, specify source of funding and amount requested:

Finance Director’s approval: X Yes  No  N/A

Staff Recommendation:
Staff recommends approval of refund.

City Manager’s approval:  Yes  No  N/A

Comments:

City Attorney’s approval:  Yes  No  N/A
MEMORANDUM

TO: Elvia Trevino
City of Harlingen
Harlingen, Texas 78550

FROM: Aurora Lozano
TAX OFFICE
Harlingen, Texas 78550

DATE: October 11, 2018

RE: Account #18-4038-0060-0070-00, Killmer James Patrick (Wells Fargo)

Attached please find a refund of over $500 which will require Commissioner’s approval. Please let this memo serve as a request for this refund to be considered for approval of disbursement on the next Commissioner’s meeting.

The adjustment is due to adding a 100% exempt veterans exemption for year “2017”.

Therefore the amount of $792.79 to be refunded to:

Wells Fargo Real Estate Tax Service
P.O. Box 14506
MACX2301-03B(ARU)
Des Moines, IA 50306

Should you have any questions regarding this matter, please contact me at (956)428-7999
### Current Property Data as of Supp 39

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### Change Desc:


### Previous Property Data as of Supp: 0

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### Gain or Loss of Value for:

| Property: 239960 | Geo: 18-4038-0060-0079-00

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AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consideration and possible action to approve an Industrial District Agreement between the City and Valley International Cold Storage LLC.

Prepared By (Print Name): Gabriel Gonzalez
Title: Assistant City Manager
Signature: Gabriel Gonzalez

Brief Summary
Valley International Cold Storage, LLC. is the fifth company to sign their Industrial Development Agreement. As part of the Agreement, the following conditions will apply.

1) The City will not annex the property for the 7 year term of the Agreement.
2) During this term, the City will provide police and fire protection, will charge the water and sewer rates as if they were located within the city limits and provide other services available to industries within the city.
3) The company will pay 100% of the fair market value of the property as certified by the Cameron County Appraisal District as of July 20th of the prior year.
4) After the 7 year term, the City may annex the property under the voluntary annexation procedures.

Staff recommends approval of the Agreement.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount

*If no, specify source of funding and amount requested:
N/A

Finance Director’s approval:

Staff Recommendation:

Approval

For Street Closures ONLY, Fire Chief’s approval:

City Manager’s approval:

Comments:

City Attorney’s approval:
THIS INDUSTRIAL DISTRICT AGREEMENT ("Agreement") is made and entered into on the date hereinafter written by and between the CITY OF HARLINGEN, TEXAS, a home-rule municipal corporation of Cameron County, Texas 78550, acting through its Mayor as authorized by its Elective Commission, (hereinafter referred to as "CITY") and VALLEY INTERNATIONAL COLD STORAGE, LLC, a corporation organized and doing business under the laws of the State of Texas at 200 N. FM 509, Harlingen, Texas 78550. (hereinafter collectively referred to as "COMPANY").

WHEREAS, it is the intention of CITY and COMPANY to enter this Agreement which shall constitute a non-annexation agreement for the property designated as H.I.C.S. INC. Subdivision, being a one lot, one block subdivision of approximately 46.814 acres, a copy of said subdivision being filed of record in Cabinet 1, pages 1314-A, of the Map record of Cameron County, Texas; ("Subject Property"); and

WHEREAS, the Subject Property is located in the extraterritorial jurisdiction of the City of Harlingen; and

WHEREAS, Texas Local Government Code Section 42.044 provides for the creation of industrial districts within the extraterritorial jurisdiction of cities; and

WHEREAS, the City Commission of the City of Harlingen adopted Resolution No. 81R-36 dated October 21, 1981 designating a part of its extraterritorial jurisdiction as an industrial district; and
WHEREAS, it is to the mutual advantage of industries and municipalities to cooperate whenever possible for the general advancement of the affected population because orderly economic growth raises the standard of living and otherwise improves the quality of life for the community as a whole; and

WHEREAS, the City Commission of the City of Harlingen is of the opinion that commercial industrial and manufacturing industries should compensate the City proportionately, recognizing their use of municipal services, and realizing that industries derive a benefit, both direct and indirect from municipal services,

NOW THEREFORE, the CITY and COMPANY, in consideration of the agreements exchanged herein do hereby contract as follows:

1) City agrees that all of the land and improvements thereon owned, used, occupied, leased, rented, or possessed by COMPANY within the Subject Property and designated by Resolution No. 81R-36 as an industrial district shall continue its extraterritorial status as an industrial district and shall not be annexed by CITY during the seven 7 year term of this agreement ("Term of this Agreement").

2) CITY further agrees that during the Term of this Agreement, CITY shall furnish to COMPANY police protection, fire protection, and such other services in the same manner furnished to other industries located within the city limits of Harlingen. It is specifically understood that water rates and sewer rates will be the same as the industrial published rates charges within the city limits.

3) COMPANY agrees to pay CITY on or before April 1 of each year during the Term of this Agreement, in lieu of taxes, the first of such payments ("PILOT") to be made on April 1, 2018 an amount calculated on the basis of the following formula:
a) Calculate 100% of the fair market value of all property real and personal, and improvements owned by COMPANY and the “Subject Property” by using as the basis thereof, the fair market value established by the Certified Cameron Appraisal District tax rolls as of July 20th of the year prior to each payment year, and subtract the Certified Cameron Appraisal District tax rolls as of July 20, 2017.

4) If any portion of the subject property is located within CITY’s corporate limits, that portion shall be subject to the normal tax treatment applicable to land of its type located within CITY.

5) CITY and COMPANY further agree that CITY may terminate this Agreement, annex the “Subject Property”, and tax all real and personal property located on the “Subject Property”, at 100% of its appraised value in the event COMPANY fails to timely make any payment in lieu of taxes or any substitute to the Payment-In-Lieu-Of-Taxes as and when required by this Agreement.

6) If Company is involved in a contest concerning the accuracy of the appraisal of the real and personal property located on the “Subject Property”, COMPANY will make the payment in lieu of taxes required under this Agreement for the amount of the Appraisal not contested.

7) CITY AND COMPANY hereby mutually agree that venue for any suit arising under this Agreement shall be in a court of appropriate jurisdiction in Cameron County, Texas.
8) Subject to all of the provisions hereof, CITY agrees that it will not annex the “Subject Property” described in this Agreement for the period of seven (7) years from the date written below herein.

10) Upon the expiration of this AGREEMENT, CITY's agreement not to annex the Subject Property shall terminate and COMPANY shall be considered by virtue of this AGREEMENT to have petitioned CITY to annex the Subject Property, and CITY may annex the Subject Property pursuant to the procedures applicable to voluntary annexations. COMPANY agrees that it shall execute any additional instruments that may be necessary to effectuate the voluntary annexation.

[Remainder of page left intentionally blank]
WITNESS OUR HAND IN DUPLICATE ORIGINALS THIS _____ day of ________, 2018.

VALLEY INTERNATIONAL COLD STORAGE LLC.

BY: ________________________

ITS: ________________________

ATTEST:

___________________________
ITS: ________________________

CITY OF HARLINGEN

BY: ________________________
    Chris Boswell, Mayor

ATTEST:

___________________________
Elena Garza, Asst. City Secretary
CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF CAMERON §

BEFORE ME, the undersigned authority on this day personally appeared Chris Boswell, Mayor of the City of Harlingen, Texas, a municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity herein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS _______ day of ________________________.

Notary Public, State of Texas
My Commission Expires: ________________________

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF CAMERON §

BEFORE ME, the undersigned authority on this day personally appeared Mary Mason, President/CEO of VALLEY INTERNATIONAL COLD STORAGE LLC, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity herein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS 24th day of October, 2018.

Notary Public, State of Texas
My Commission Expires: 6-6-2021
**AGENDA ITEM**

**EXECUTIVE SUMMARY**

Meeting Date: **November 7, 2018**

**Agenda Item:**

Investment report for the City of Harlingen for quarter ended September 30, 2018.

**Prepared By (Print Name):** Elvia Treviño  
**Title:** Finance Director

**Signature:**

**Brief Summary:**

The investment report shows the total amount of cash and investment transactions in summary and detail for all City funds. The report includes type of investments, interest rates, maturity dates and portfolio composition.

**Highlights:**

- $58,918,539.64 Total book value of all City funds at September 30, 2018
- $291,780.27 Interest earned during the quarter
- 1.899% Weighted average yield to maturity
- 96% Cash and Investments maturing within 0-3 months
- 0.04% Investments maturing within 6-12 months

The graphical summary of the City’s portfolio is displayed on pages 4 & 5. The City of Harlingen manages and invests funds with three objectives, listed in order of priority: Preservation and Safety of Principal, Liquidity, and Yield. All investments comply with the Public Funds Investment Act (PFIA).

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount

- [ ] Yes  
- [ ] No*

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

Finance Director’s approval:  

- [ ] Yes  
- [ ] No  
- [ ] N/A

**Staff Recommendation:**

Approve quarterly investment report.

City Manager’s approval:

- [ ] Yes  
- [ ] No  
- [ ] N/A

**Comments:**

City Attorney’s approval:

- [ ] Yes  
- [ ] No  
- [ ] N/A
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Public hearing to solicit comments regarding the proposed issuance by the Arizona Industrial Development Authority (the "Authority") of its revenue bonds in one or more series from time to time pursuant to a plan of financing (the "Bonds") not to exceed $32,000,000.

Prepared By (Print Name): Dan Serna
Title: City Manager
Signature:

Brief Summary:
Notice of the public hearing is required by Section 147(f) of the Internal Revenue Code of 1986 as amended by (the Code) and is being held with respect to the proposed issuance by the Arizona Industrial Development Authority ("Authority") of its revenue bonds pursuant to a plan of finance (the "Bonds") in an amount not to exceed $32,000,000 for the construction of a hotel adjacent to the Harlingen Convention Center.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount Yes No*
If no, specify source of funding and amount requested:
Finance Director's approval: Yes No N/A

Staff Recommendation:
No action is required.

City Manager's approval: Yes No N/A

Comments:

City Attorney's approval: Yes No N/A

*If no, specify source of funding and amount requested:
NOTICE IS HEREBY GIVEN that on November 7, 2018, a public hearing, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), will be held with respect to the proposed issuance by the Arizona Industrial Development Authority (the "Authority") of its revenue bonds in one or more series from time to time pursuant to a plan of financing (the "Bonds"). The hearing will be held by the City Commission of the City of Harlingen, Texas (the "City"), and will commence at 5:30 p.m., or at reasonable times thereafter as the matter can be heard, and will be held at City Hall, Town Hall Meeting Room, 2nd Floor, 118 E. Tyler Street, Harlingen Texas 78550.

The Bonds are expected to be issued pursuant to the Industrial Development Financing Act, Title 35, Chapter 5, Articles 1 through 5 of the Arizona Revised Statutes, as amended (the "Act"), by the Authority, an Arizona nonprofit corporation designated as a political subdivision of the State of Arizona, incorporated with the approval of the Arizona Finance Authority, pursuant to the provisions of the Constitution and law of the State of Arizona and the Act. The proceeds from the sale of the Bonds will be loaned to Provident Group - Harlingen Properties LLC (the "Borrower"), an Arizona limited liability company, the sole member of which is Provident Resources Group Inc., a Georgia nonprofit corporation and an organization described in Section 501(c)(3) of the Code, and used to finance (a) the costs of acquiring, designing, constructing and equipping a full-service convention center hotel, with approximately 150 rooms, meeting space and other amenities (collectively, the "Hotel"), to be located at 711 Harlingen Heights Drive, Harlingen, Texas, at the southwest corner of Harlingen Heights Drive and Horizon Drive in the City of Harlingen, Texas, (b) reserves, initial operating costs and other required amounts in connection therewith, and (c) costs of issuance of the Bonds (collectively, the "Project"). The Hotel will initially be owned by the Borrower for the benefit of the City for the purpose of lessening and alleviating the burdens of government of the City in connection with the operation of its convention center, promoting economic development and welfare and diversifying the economy. The Hotel is expected to initially be operated by BC Lynd Hospitality, LLC, a Texas limited liability company, or an affiliate thereof. The Hotel will eventually be owned by the City or transferred at the direction of the City, and all residual revenues from the Hotel shall belong to and be transferred to the City.

The proposed Bonds will not constitute, directly or indirectly, or contingently obligate or otherwise constitute a general obligation of or a charge against the general credit of the Authority, the Arizona Finance Authority, the State of Arizona, or of any political subdivision thereof, but will be special limited obligations of the Authority payable solely from the loan repayments to be made by the Borrower and certain funds and accounts and assets to be established by the Authority for the Bonds. The Bonds will not constitute a debt or a loan of credit or a pledge of the full faith and credit or taxing power of the Authority, the Arizona Finance Authority, the State of Arizona, or of any political subdivision thereof, within the meaning of any State of Arizona constitutional provision or statutory limitation and shall not constitute or give rise to a pecuniary liability of the Authority, the Arizona Finance Authority, the State of Arizona, or of any political subdivision thereof. The Authority has no taxing power.

The proposed Bonds will not be issued by the City or on behalf of the City but will be issued by the Authority pursuant to the laws of the State of Arizona on behalf of the Borrower. The Bonds will not constitute an indebtedness or pledge of the City within the meaning of any constitutional or statutory provision, and the owners of the Bonds will not be paid in whole or in part out of any funds raised or to be raised by taxation or any other revenues of the City.

At the time and place set for the public hearing, interested persons will be given a reasonable opportunity to express their views, both orally and in writing, on the merits of the Project, its location, the issuance of the Bonds or related matters. Oral comments will be limited to two (2) minutes per speaker. A person wishing to speak at the hearing will be asked to provide his or her name, address and the person(s) or entity(ies) he or she represents, if any, prior to speaking. Written comments will be accepted by the City Commission of the City located at City Hall, 118 E. Tyler Street, Harlingen Texas 78550, but must be received prior to the close of the hearing.
AGENDA ITEM  
EXECUTIVE SUMMARY  

Meeting Date: November 7, 2018  

Agenda Item:  
Consideration and possible action to approve a resolution approving the issuance by the Arizona Industrial Development Authority of its Revenue Bonds, in one or more series, in an aggregate principal amount not to exceed $32,000,000 to finance costs of acquiring, designing, constructing and equipping a Convention Center Hotel for Provident Group-Harlingen Properties LLC.  

Prepared By (Print Name): Dan Serna  
Title: City Manager  
Signature:  

Brief Summary:  
Approval of this resolution shall not construe to create any obligation or liability to the City of Harlingen in any respect whatsoever pertaining to the Bonds. No statement or representation or recital herein shall be deemed to constitute a legal conclusion or determination that any particular action is required, authorized or permitted under the laws of the State of Texas, the State of Arizona or the United States. The Bonds are not issued by the City of Harlingen or on behalf of the City, but are issued by the Authority pursuant to the laws of the State of Arizona on behalf of the Borrower. The Bonds will not constitute an indebtedness or pledge of the City within the meaning of any constitutional or statutory provisions, and the owners of the Bonds will not be paid in whole or in part out of any funds raised or to be raised by taxation or any other revenues of the City. The development of the Hotel adjacent to the Convention Center is required for the success of the Convention Center and to accomplish the goals and objectives with respect to the Hotel and Convention Center Project and will serve as a function of economic development and other public benefits.  

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<th>Funding (if applicable):</th>
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<tbody>
<tr>
<td>Are funds specifically designated in the current budget for the full amount</td>
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<td>for this purpose?</td>
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<tr>
<td>*If no, specify source of funding and amount requested:</td>
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<tr>
<td>Finance Director’s approval:</td>
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<th>Staff Recommendation:</th>
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<tr>
<td>Staff recommends approval of the resolution.</td>
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Comments:  

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<th>City Attorney’s approval:</th>
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<td>Yes</td>
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A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
HARLINGEN, TEXAS, APPROVING THE EXECUTION OF A
COOPERATION AND DEVELOPMENT AGREEMENT IN
CONNECTION WITH PROVIDENT GROUP-HARLINGEN
PROPERTIES LLC ACQUIRING, DESIGNING, CONSTRUCTING AND
EQUIPPING A CONVENTION CENTER HOTEL FOR THE BENEFIT
OF THE CITY

WHEREAS, the City of Harlingen, Texas (the "City") solicited competitive sealed
proposals ("RFP No. 2015-05") for the construction, development and operation of a convention
center hotel and a public convention center to be located in the City (hereinafter defined as the
"Hotel and Convention Center Project"); and

WHEREAS, City, after review and evaluation of the proposals submitted in response to
RFP No. 2015-05, selected BC Lynd Hospitality, LLC and Reyna Hospitality Management LLC
("Bidder") for the Hotel and Convention Center Project; and

WHEREAS, Bidder’s response to RFP No. 2015-05 proposed that Bidder would design,
construct and operate a full upscale convention center hotel (hereinafter defined as the "Hotel"
or the "Hotel Project") on a site adjacent to an upscale public convention center (hereinafter
defined as the "Convention Center") to be designed, constructed, operated and furnished by
Bidder on behalf of the City on approximately eight (8) acres of the land; and

WHEREAS, RFP No. 2015-05 was issued by the City to facilitate the development of
the Hotel and Convention Center Project, to (i) maximize the impact on the City economy; (ii)
increase the number of group meeting events held in the City; (iii) leverage public and private
resources to maximize the positive economic impact on the City; and (iv) provide for future
development in the City; and

WHEREAS, the City has determined that the development, construction and operation
of the Hotel and Convention Center Project will serve a public purpose of promoting economic
development and welfare and diversifying the economy by (a) attracting business meetings and
conventions to the City, (b) attracting businesses to the City, (c) increasing the City’s tax base,
resulting in increased receipts from City taxes, (d) enhancing and increasing revenues to the City
to defray expenses, pay the City’s debt, and maintain the availability of other City funds to pay
for other governmental services provided to the citizens of the City, (e) increasing tourism and
providing economic development and additional jobs for the residents of the City, (f) promoting
further economic development, (g) promoting the economic welfare of the City’s citizens,
resulting in a higher standard of living, higher employment, economic activity and stability for
the citizens of the City, (h) securing and maintaining private commercial and industrial
enterprises in the City, and (h) increasing development of undeveloped and/or remedy blighted
areas in the City, all of which the City finds to be a burden of its local government (collectively,
the "Government Burdens"); and

WHEREAS, the City has determined that the development of the Hotel adjacent to the
Convention Center is required for the success of the Convention Center and the accomplishment
of the City’s goals and objectives with respect to the Hotel and Convention Center Project; and

WHEREAS, the City acknowledges that, as a function of economic development and other public benefits which arise therefrom, the Hotel and Convention Center Project is a legitimate governmental purpose, function and burden, which can be undertaken by the City on its own under applicable laws, rules, regulations, statutes, codes and ordinances and specifically with regard to the Hotel, pursuant to Section 1508.102 of the Texas Government Code, as amended; and

WHEREAS, the City has determined to finance the construction of the Convention Center by issuing debt, and to engage the Bidder (or its affiliate) to construct, develop, and operate the Convention Center for the benefit of the City; and

WHEREAS, the City has requested that Provident Resources Group Inc., a Georgia nonprofit corporation and an organization exempt from the payment of federal income tax under Section 501(a) of the Internal Revenue Code, as an entity created under Section 501(c)(3) of the Internal Revenue Code (“Provident”) to assist the City in fulfilling its Government Burdens by developing, owning, financing, and operating the Hotel for the benefit of the City; and

WHEREAS, one of the charitable purposes of Provident is to serve to lessen the burdens of government, which charitable purpose may be accomplished through various means, including without limitation, the development, construction, acquisition, ownership, management, maintenance, operation and disposition of public facilities, public buildings, public works and infrastructure of various types, including but not limited to hotel and convention centers, that serve the economic development public purposes and functions of government, the provisions of services and financial assistance, and the performance of activities that enable state and local government to proficiently carry out its functions and responsibilities to its citizens; and

WHEREAS, Provident has formed Provident Group-Harlingen Properties LLC, as a single member limited liability company with its sole member being Provident (“Owner”), with (i) Owner being disregarded as an entity separate and apart from Provident for federal income tax purposes, and (ii) the activities of Owner being attributed to Provident as a nonprofit corporation; and

WHEREAS, Owner is organized exclusively to further the stated charitable purposes of Provident, and specifically, the Owner is organized exclusively for the purpose of lessening the burdens of the City by assisting the City in developing, constructing, financing, owning, operating, and maintaining the Hotel in concert with the development of the Convention Center to be owned by the City, which is imperative for the success of the Convention Center Project and alleviates the burden of funding said Hotel by the City and leaves the funding which the City might otherwise use for the Hotel for other purposes to benefit the citizens of the City; and

WHEREAS, as the City has issued debt to pay for the construction of the Convention Center, it is unwilling to incur further debt to construct the Hotel, and has asked Provident to develop and own the Hotel, and to provide financing for the Hotel under a structure wherein the City will not be liable or responsible in any manner for the debt incurred by Owner to construct the Hotel, and may rely fully on the assertions and declarations of Provident and Owner in the sufficiency and legality of its organization, purpose, and actions undertaken pursuant to any and all agreements undertaken for this Project; and
WHEREAS, Owner will develop, own, operate (through an approved operator) and dispose of the Hotel for the exclusive benefit of the City, in order to lessen and alleviate the Governmental Burdens; and

WHEREAS, the Owner as borrower ("Borrower") has requested the assistance of the Arizona Industrial Development Authority (the "Authority"), an Arizona nonprofit corporation designated as a political subdivision of the State of Arizona, incorporated with the approval of the Arizona Finance Authority, pursuant to the provisions of the Constitution and law of the State of Arizona and the Industrial Development Financing Act, Title 35, Chapter 5, Articles 1 through 5, Arizona Revised Statutes, as amended (the "Act"), to issue its revenue bonds in one or more series from time to time, in an aggregate principal amount not to exceed $32,000,000 (the "Bonds"), the proceeds of which will be used to make a loan to the Borrower to (a) finance the costs of acquiring, designing, constructing and equipping the Hotel, (b) finance reserves, initial operating costs and other required amounts in connection therewith, and (c) finance costs of issuance of the Bonds (collectively, the "Project");

WHEREAS, the Hotel will be owned by the Owner and is expected to initially be operated by BC Lynd Hospitality, LLC, a Texas limited liability company, or an affiliate thereof, as the Hotel operator engaged by Owner;

WHEREAS, in order to obtain the participation of Provident and Owner in the Hotel and the Project, the Owner and the City desire to enter into the Cooperation and Development Agreement attached hereto as Exhibit A ("Development Agreement"); and

WHEREAS, THE FOREGOING RECITALS ARE HEREBY INCORPORATED INTO THE BODY OF THE RESOLUTION BY REFERENCE HERETO.

NOW, THEREFORE, IT IS RESOLVED, DETERMINED AND ORDERED by the City Commission of the City of Harlingen, Texas, as follows:

Section 1. It is the purpose and intent of the City Commission that this resolution constitute a determination that the Hotel and Convention Center Project is a legitimate governmental burden and function, and has been proposed by the City to accomplish and alleviate its Governmental Burdens.

Section 2. It is the purpose and intent of the City Commission that this resolution constitute the request of and approval by the City to (i) engage Provident Resources Group Inc., a Georgia nonprofit corporation (through its wholly-owned subsidiary Provident Group-Harlingen Properties LLC) to assist the City in lessening and achieving its Governmental Burdens, by owning, developing, constructing, operating, managing and disposing of the Hotel for the exclusive benefit of the City; and (ii) execute and deliver the Development Agreement.

Section 3. It is the purpose and intent of the City Commission that this resolution confirm that engaging Provident Resources Group Inc. (through its wholly-owned subsidiary Provident Group-Harlingen Properties LLC) will actually lessen the Governmental Burdens on the City and accomplish the City's objectives as described in the Governmental Burdens.

Section 4. The City Secretary and applicable officers of the City Commission are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver
any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 5. Nothing in this resolution shall be construed to create any obligation or liability of the City in any respect whatsoever arising out of or pertaining to the Bonds or their securing, or pertaining to the acquisition, development, construction and operation of the Hotel, and the payment of the cost incurred in connection therewith. No statement, representation or recital herein shall be deemed to constitute a legal conclusion or determination that any particular action or proposed action is required, authorized or permitted under the laws of the State of Texas or any other state, or the United States. The Bonds will not constitute an indebtedness or pledge of the City within the meaning of any constitutional or statutory provision, and the owners of the Bonds will not be paid in whole or in part out of any funds raised or to be raised by taxation or any other revenues of the City.

Section 6. The City Secretary shall forward a certified copy of this resolution, with attachments, to:

Fishman Haygood, LLP
100 North Street Suite 800
Baton Rouge, Louisiana 70802
Attn: Louis Quinn, Jr.

Section 7. This resolution shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED at a regular meeting of the City Commission of the City of Harlingen, Texas on this _____ day of __________, 2018.

By: ________________________________
    Chris Boswell, Mayor

ATTEST:

By: ________________________________
    Amanda C. Elizondo, City Secretary
EXHIBIT A

DEVELOPMENT AGREEMENT
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consideration and possible action to approve a Corporation and Development Agreement between City of Harlingen and Provident Group-Harlingen Properties LLC for the construction of the hotel adjacent to the Harlingen Convention Center and authorize the City Manager to sign the agreement.

<table>
<thead>
<tr>
<th>Prepared By (Print Name):</th>
<th>Dan Serna</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td>City Manager</td>
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Brief Summary:
The term of this agreement shall begin on the last date of execution of this agreement and shall continue until the Parties have fully satisfied their respective obligations under this agreement. The City Manager is hereby designated as the City’s representative. The Hotel will initially be owned by the Borrower for the benefit of the City for the purpose of lessening and alleviating the burdens of government of the City in connection with the operation of its convention center, promoting economic development and welfare, and diversifying the economy. The Hotel is expected to initially be operated by BC Lynd Hospitality, LLC, a Texas limited liability company, or an affiliate thereof. The Hotel will eventually be owned by the City, or transferred at the direction of the City, and all residual revenues from the Hotel shall belong to and be transferred to the City. The construction of the hotel will be paid strictly by the owners of the Bonds and will not be paid in whole or in part out of funds raised or to be raised by taxation or any other revenues of the City of Harlingen.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount for this purpose?  
Yes [ ]  No [X]  
*If no, specify source of funding and amount requested:

Finance Director’s approval:
[ ] Yes  [ ] No  [ ] N/A

Staff Recommendation:
Staff recommends approval of the agreement Provident Group-Harlingen Properties LLC for the construction of the hotel.

City Manager’s approval:
[ ] Yes  [ ] No  [ ] N/A

Comments:

City Attorney’s approval:
[ ] Yes  [ ] No  [ ] N/A
Cooperation and Development Agreement
between
City of Harlingen, Texas
and
Provident Group-Harlingen Properties LLC
for
City of Harlingen Convention Center Hotel

Dated: ____________, 2018
This Cooperation and Development Agreement (the “Agreement”) is made by and between CITY OF HARLINGEN, a Texas home rule municipal corporation (“City”), and PROVIDENT GROUP-HARLINGEN PROPERTIES LLC, an Arizona limited liability company (“Owner”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized representatives.

RECITALS

WHEREAS, City solicited competitive sealed proposals ("RFP No. 2015-05") for the construction, development and operation of a convention center hotel and a public convention center to be located in the City (hereinafter defined as the "Hotel and Convention Center Project"); and

WHEREAS, City, after review and evaluation of the proposals submitted in response to RFP No. 2015-05, selected BC Lynd Hospitality, LLC and Reyna Hospitality Management LLC (“Bidder”) for the Hotel and Convention Center Project; and

WHEREAS, Bidder’s response to RFP No. 2015-05 proposed that Bidder would design, construct and operate a full upscale convention center hotel (hereinafter defined as the “Hotel” or the “Hotel Project”) on a site adjacent to an upscale public convention center (hereinafter defined as the “Convention Center”) to be designed, constructed, operated and furnished by Bidder on behalf of the City on approximately eight (8) acres of land at 711 Harlingen Heights Drive in the City; and

WHEREAS, RFP No. 2015-05 was issued by the City to facilitate the development of the Hotel and Convention Center Project, to (i) maximize the impact on the City economy; (ii) increase the number of group meeting events held in the City; (iii) leverage public and private resources to maximize the positive economic impact on the City; and (iv) provide for future development in the City; and

WHEREAS, the City has determined that the development, construction and operation of the Hotel and Convention Center Project will serve a public purpose of promoting economic development and welfare and diversifying the economy by (a) attracting business meetings and conventions to the City, (b) attracting businesses to the City, (c) increasing the City’s tax base, resulting in increased receipts from City taxes, (d) enhancing and increasing revenues to the City to defray expenses, pay the City’s debt, and maintain the availability of other City funds to pay for other governmental services provided to the citizens of the City, (e) increasing tourism and providing economic development and additional jobs for the residents of the City, (f) promoting further economic development, (g) promoting the economic welfare of the City’s citizens, resulting in a higher standard of living, higher employment, economic activity and stability for the citizens of the City, (h) securing and maintaining private commercial and industrial enterprises in the City, and (h) increasing development of undeveloped and/or remedy blighted areas in the City, all of which the City finds to be a burden of its local government (collectively, the “Government Burdens”); and
WHEREAS, the City has determined that the development of the Hotel adjacent to the Convention Center is required for the success of the Convention Center and the accomplishment of the City’s goals and objectives with respect to the Hotel and Convention Center Project; and

WHEREAS, the City acknowledges that, as a function of economic development and other public benefits which arise therefrom, the Hotel and Convention Center Project is a legitimate governmental purpose, function and burden, which can be undertaken by the City on its own under applicable laws, rules, regulations, statutes, codes and ordinances and specifically with regard to the Hotel, pursuant to Section 1508.102 of the Texas Government Code, as amended; and

WHEREAS, the City has determined to finance the construction of the Convention Center by issuing debt, and to engage the Bidder (or its affiliate) to construct, develop, and operate the Convention Center for the benefit of the City; and

WHEREAS, the City has requested that Provident Resources Group Inc., a Georgia nonprofit corporation and an organization exempt from the payment of federal income tax under Section 501(a) of the Internal Revenue Code, as an entity created under Section 501(c)(3) of the Internal Revenue Code ("Provident") assist the City in fulfilling its Government Burdens by developing, owning, financing, and operating the Hotel for the benefit of the City; and

WHEREAS, one of the charitable purposes of Provident is to serve to lessen the burdens of government, which charitable purpose may be accomplished through various means, including without limitation, the development, construction, acquisition, ownership, management, maintenance, operation and disposition of public facilities, public buildings, public works and infrastructure of various types, including but not limited to, hotel and convention centers, that serve the economic development public purposes and functions of government, the provisions of services and financial assistance, and the performance of activities that enable state and local government to proficiently carry out its functions and responsibilities to its citizens; and

WHEREAS, Provident has formed Owner as a single member limited liability company with its sole member being Provident, with (i) Owner being disregarded as an entity separate and apart from Provident, and (ii) the activities of Owner being attributed to Provident as a nonprofit corporation; and

WHEREAS, Owner is organized exclusively to further the stated charitable purposes of Provident, and specifically, the Owner is organized exclusively for the purpose of lessening the burdens of the City by assisting the City in developing, constructing, financing, owning, operating, and maintaining the Hotel in concert with the development of the Convention Center to be owned by the City, which is imperative for the success of the Convention Center Project and alleviates the burden of funding said Hotel by the City and leaves the funding which the City might otherwise use for the Hotel for other purposes to benefit the citizens of the City; and

WHEREAS, as the City has issued debt to pay for the construction of the Convention Center, it is unwilling to incur further debt to construct the Hotel, and has asked Provident to develop and own the Hotel, and to provide financing for the Hotel under a structure wherein the
City will not be liable or responsible in any manner for the debt incurred by Owner to construct the Hotel, and may rely fully on the assertions and declarations of Provident and Owner in the sufficiency and legality of its organization, purpose, and actions undertaken pursuant to this Agreement; and

WHEREAS, Owner will acquire the land upon which the Hotel will be located from the current owner thereof (which is adjacent to the Convention Center site), and thereafter develop, own, operate (through an approved operator, which shall initially be an affiliate of Development Manager, as defined herein below) and dispose of the Hotel for the exclusive benefit of the City, in order to lessen and alleviate the Governmental Burdens; and

WHEREAS, Owner has also elected to engage Development Manager to construct and manage development of the Hotel; and

WHEREAS, nothing as stated within or arising out of this Agreement shall give rise to any obligation, charge, or liability, pecuniary or otherwise, against the credit or the taxing powers of the City, and no recourse will be had against the City or any officer, governing member, official, employee, attorney, agent, or representative of the City as stated within or arising out of this Agreement; and

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS AND GENERAL TERMS

1.1 For purposes of this Agreement, the following words and phrases shall have the meanings indicated unless the context clearly indicates otherwise:

"Applicable Law" means all laws or statutes, rules or regulations, and any amendments thereto, of the State of Texas or the United States by which the City and its powers, securities, operations and procedures are, or may be governed or from which its powers may be derived, including all City codes, ordinances and development standards.

"Approved" or "Approval" means written approval by City in its sole reasonable discretion.

"Approved Franchise" shall mean a franchise agreement with an Approved Franchisor whereby Owner and its operator are permitted to operate the Hotel using the name and reservation system of the Approved Franchisor, including without limitation, the standard form of franchise agreement of the applicable Franchisor.

"Approved Franchisor" shall mean a national hotel franchisor, and for a specific hotel product, approved by the City; provided, however, that the City shall not unreasonably withhold its consent to a franchisor which is one of the five (5) largest national hotel chains with existing operations in the following South Texas counties: Cameron, Hidalgo, Kleberg, Nueces, Starr and Willacy Counties, as of that date, such as Marriott, Starwood or Hyatt. The City has approved
Hilton Franchise Holding, LLC as the initial Approved Franchisor and Hilton Garden Inn as the initial approved hotel brand.

"Approved Plans" means the plans and specifications for the Hotel Project which must be approved by the City prior to commencement of construction.

"City" shall mean the City of Harlingen, Texas.

"City Indemnified Persons" means the City and each of its officers, governing members, officials, employees, attorneys, agents, or representatives.

"Commencement of Construction" means that substantial work for the construction of the Hotel has commenced, with the intent of prosecuting all Work until completion of the Hotel Project.

"Completion of Construction" means (i) the Hotel Project has been substantially completed in accordance with the requirements of this Agreement; (ii) a Certificate of Substantial Completion for the Hotel Project in customary form, executed by the Hotel Project architect; (iii) Owner has provided or caused to be provided an affidavit of completion and waiver of liens and provided proof of payment of all subcontractors and suppliers and waivers or releases of liens for each; (iv) the FF&E has been installed and accepted by the Owner; and (v) City has issued a temporary or conditional certificate of occupancy for the Hotel Project.

"Construction Contract" means the contract among the Owner, the Development Manager, and the Contractor for the Hotel Project.

"Construction Schedule" means the number of months following Commencement of Construction required to cause Completion of Construction of the Hotel Project as Approved by the City, as set forth in the Construction Contract.

"Contract Documents" means the Construction Contract and all exhibits, change order, supplements and addenda thereto.

"Contractor" means a general contractor selected by the Owner and Development Manager who will be the general contractor to construct and complete the Hotel Project. The Owner has approved Alamo System Industries, LLC, as the initial Contractor.

"Convention Center" means a public "upscale" convention center containing approximately 43,700 gross square feet of space, and containing one or more ballrooms and other meeting spaces, lobbies, pre-function areas, production kitchen, and other support spaces, together with ancillary facilities such as required parking and landscaping being further described in the approved plans for the Convention Center.

"Delivery Date" will be the date on which the Hotel Project is required to achieve Substantial Completion in accordance with the Construction Contract.

"Development Manager" means BC Lynd Services, LLC.
“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes, slowdowns or work stoppages, or adverse weather conditions.

“Hotel” means a full “upscale” convention hotel consisting of approximately 150 guest rooms, with food and beverage service suitable for both guest and groups (including facilities appropriate for preparing at least three meals per day), lounge facilities, swimming pool, and containing other related amenities such as landscaping and parking to be operated pursuant to a Hilton Garden Inn hotel franchise or other Approved Franchise on a site adjacent to the Convention Center.

“Notice” means (for the convenience, severally and collectively) any notice, statement, communication, request or reply authorized or permitted to be given, made or accepted under this Agreement.

“Quarterly Reports” means written reports which shall be delivered to the City’s Representative in such form as is reasonably required by the City’s Representative on a quarterly basis; such reports being due as follows: first quarter (January 1 – March 31) shall be due on or before May 1, of each year; second quarter (April 1 – June 30) shall be due on or before August 1, of each year; third quarter (July 1 – September 30) shall be due on or before November 1, of each year; and, fourth quarter (October 1 – December 31) shall be due on or before February 1 of each subsequent year.

“REA” means that certain Easement Agreement for Reciprocal Access and Parking between the City, as the first party, and Reyna Family Development, Ltd., Ezequiel Reyna, Jr. and Livia R. Reyna, collectively as the second party, dated July 21, 2017 and recorded in the Official Public Records of Cameron County, Texas as Document Number 2017-28531, concerning (i) the grant of various cross-access, utility, lighting, signage, and parking easements, and (ii) certain maintenance and cost-sharing agreements with respect thereto.

“Real Property” means that certain platted lot which shall be acquired by the Owner, and upon which the Hotel shall be located, and which is more fully described in Exhibit “B”.

“Substantial Completion” means the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that Hotel can be opened and operated.

“Upscale” or “Upscale Standard” shall mean, with respect to the Hotel, the operation and maintenance of the Hotel in a manner such that the condition of the hotel shall demonstrate refined, high quality and fully functional appointments; furniture, fixtures and equipment; exterior and interior finishes; landscaping; mechanical, electrical and structural components, adequate staffing, and food, beverage, banquet and event services, consistent with hotels of comparable size and operation within the State of Texas, that are affiliated with hotels operating pursuant to an Approved Franchise or an approved franchise for a Hilton Garden Inn.
“Work” means provision of all services, labor, materials, supplies, and equipment, which are required or reasonably inferable to complete the Hotel Project in substantial accordance with the requirements of the Contract Documents and the Approved Plans.

ARTICLE II
NO LIABILITY OR OBLIGATION OF THE CITY

2.1 No Liability or Obligation of the City or its Representatives. Nothing herein shall give rise to any obligation, charge, or liability, pecuniary or otherwise, against the City or the credit or the taxing powers of the City, and no recourse will be had against the City or any City Indemnified Person. The City disclaims any contractual or tort liability hereunder.

2.2 No Waiver of Immunity. In that regard the parties agree and acknowledge that the City is a home rule municipality chartered under the Texas Constitution and a political subdivision of the State of Texas and that the City, in reliance on the representations of this Section 2.1, has made no allowance for any obligation under this Agreement to be paid from current revenues and has not adopted any order, resolution, tax nor interest and sinking funds for the payment of any such obligation; and, furthermore, City does not waive City’s immunity beyond the scope of that allowed by the Texas Tort Claims Act or existing law.

2.3 No Recourse. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the City contained in this Agreement, or for any claim based hereon or otherwise in respect hereof or arising out of or any resolution of the City adopted in connection herewith or with respect to the Hotel or the financing thereof, against any of the City Indemnified Persons, whether by virtue of any constitutional provision, statute or rule of federal or state law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any of the City Indemnified Persons, either directly or by reason of any matter hereunder, or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against each of the City Indemnified Persons is, by the execution of this Agreement, and as a condition of, and as part of the consideration for, the execution of this Agreement, expressly waived and released.

ARTICLE III
TERM

3.1 Term. The term of the agreement begins on the last date of execution of this Agreement (the “Effective Date”) and shall continue until the Parties have fully satisfied their respective obligations hereunder, unless sooner terminated as provided herein.

ARTICLE IV
GENERAL TERMS

4.1 Cooperation of the Parties. Owner and City acknowledge and agree that each will work in a reasonable and mutually cooperative manner in performing its respective obligations under this Agreement.
4.2 **No Broker’s Fees or Commissions.** Each Party hereto hereby represents to the other Party that such Party has not created any liability for any broker’s fee, broker’s or agent’s commission, finder’s fee or other similar fees or commission in connection with this Agreement.

4.3 **City Representative.** City hereby designates the City Manager as the representative of City (the "City Representative"). The City may, from time to time, change the person who is City Representative by giving at least ten (10) calendar days prior written Notice to Owner thereof. With respect to any such action, decision or determination to be taken or made by City under this Agreement, the City Representative will take such action or make such decision or determination or will notify Owner in writing of the person(s) responsible for such action, decision or determination and will forward any communications and documentation to such person(s) for response or action.

4.4 **Owner Representative.** Owner hereby designates Steve E. Hicks or David Grand, to be the representative of the Owner (the "Owner Representative"). The Owner Representative is authorized to act on behalf of Owner under this Agreement. Owner may, from time to time, change the Person who is the Owner Representative by giving City written notice thereof; provided, however, that Owner will give City at least 10 calendar days prior written notice of any intention to appoint a new Owner Representative and will consult in good faith with City with respect to the selection of such new Owner Representative. With respect to any such action, decision or determination to be taken or made by Owner under this Agreement, the Owner Representative will take such action or make such decision or determination or will notify City in writing of the person(s) responsible for such action, decision or determination and will forward any communications and documentation to such person(s) for response or action.

**ARTICLE V**

PROJECT

5.1 **Project Summary.** Subject to the terms and conditions of this Agreement, Owner shall plan, develop, furnish, and construct the Hotel Project in accordance with the Approved Plans.

5.2 **Hotel Project Plans.** Owner shall deliver to the City, the Approved Plans prior to commencement of construction.

5.3 **Real Property.** To enter into a land purchase contract with respect to the Real Property, and purchase the Real Property from proceeds received from the financing of the Property, at a price that does not exceed the fair market value thereof.

5.4 **Construction Schedule.** The Construction Schedule for the Hotel Project will be provided to the City prior to commencement of construction, and Owner shall not commence construction until the Construction Schedule has been approved by the City.

5.5 **Owner and Development Manager Duties.** Subject to the provisions of this Agreement, Owner shall, or shall cause Development Manager to, perform the duties set forth herein regarding the administration and management of the design, development and construction of the Hotel Project in accordance with the Hotel Project construction budget and
Such administration, management duties shall include, but are not limited to, the following:

1. Selection of architects, surveyors, engineers, testing laboratories and consultants for the design, development and construction of the Hotel Project;

2. Evaluation and selection of budgets, plans, construction schedules and other design parameters for the development of the Hotel Project in accordance with the Upscale Standard, including, without limitation, estimates of costs of construction, materials, labor, equipment, and timing of procurement, and evaluation of the relative feasibility and cost of alternative construction methods and materials for the Hotel Project;

3. Review of all designs and specifications for the Hotel Project (without assuming the Project architect's responsibility therefor) and, in collaboration with the Project architect, establishing procedures for review of working drawings, samples and construction data, which design and specifications must fully comply with the Approved Plans;

4. Administration of the contracting and subcontracting process for the Hotel Project to ensure good and workmanlike construction and timely completion of the Hotel Project in conformance with the construction budget for the Hotel Project;

5. Preparation of a request for proposal for a guaranteed maximum price construction contract or other contracts, receiving bids, preparing analyses of bids (when necessary), providing consultation regarding of bids for the Hotel Project, and providing for City review of all contracts and documents as stated herein;

6. Fulfill its obligations as the Owner under the Construction Contract;

7. Assisting contractors, subcontractors or other independent contractors engaged for such projects with the procurement of all necessary permits and applicable approvals related to the development and construction of the Hotel Project and management of the progress of all contractors and subcontractors with the terms of such permits, and provide the Quarterly Reports to the City;

8. Assisting with the coordination of the work of the Contractor and subcontractors for the Hotel Project, and provide the Quarterly Reports to the City;

9. Reviewing and processing of payment applications and lien waivers by Contractor or subcontractors for progress and final payments and lien-free completion of the Hotel Project, consulting with Project Architect at the request of the City, and requiring submittal of payment applications on
forms approved by Owner, schedule of values from subcontractors, and copies of requisitions and/or invoices from subcontractors, and provide the Quarterly Reports to the City;

(10) Cause Development Manager to record the progress of the design, development and construction of the Hotel Project and, shall submit written monthly progress reports to City on or before the 20th of each calendar month;

(11) Cause the General Contractor to comply with the Construction Schedule;

(12) Award or cause the award of the necessary contracts for the design, construction and furniture, fixtures, and equipment of the Hotel Project;

(13) Providing remote and/or on-site management services as required to manage the Hotel Project, and provide the Quarterly Reports to the City;

(14) Making physical visits to the job site to review the work and progress of construction with the Contractors, and provide the Quarterly Reports to the City;

(15) Providing City access to any and all documents and activities contained in this Section 5.5, and while responding within a reasonable time to any questions regarding the same, and also providing relevant documentation where applicable or requested, from the City regarding the work or progress of construction, construction methods, scheduling, and the like other activities necessary to carry out and finalize the Project;

(16) Coordinating efforts by all appropriate parties to complete the Hotel Project, and provide the Quarterly Reports to the City;

(17) Assisting in the scheduling of inspections and the preparation of punch lists items;

(18) Obtaining, or causing the Contractor to obtain, a temporary, if applicable, and permanent certificate of occupancy (or other appropriate and necessary governmental permission to occupy) with respect to the Hotel Project;

(19) Cause the Hotel Project to be constructed in a good and workmanlike manner free of liens in connection with such construction in accordance with Applicable Law, engineering testing and inspection of as required by law;

(20) Cause the maintenance of proper, accurate and complete accounting records including the Quarterly Reports, purchasing receipts and delivery tickets made in connection with the purchase of the FF&E and make available these records, at the request of the City, for audit, inspection and
photocopying by the City, or any other persons designated by the City upon five (5) business days’ notification, such audit, inspection or photocopying to be conducted at the City’s expense during regular business hours;

(21) To the extent not already addressed in the REA, cause the preparation of other easements necessary for the Hotel Project for approval by the Parties;

(22) Cause the Hotel Project site to be kept reasonably clean during performance of the Hotel Project Work;

(23) Upon Completion of Construction of the Hotel Project, cause the Hotel Project site to be cleaned and cause the removal of all waste, rubbish, temporary structures, and other materials together with and Contractor’s property therefrom;

(24) Cause defective Hotel Project Work to be remedied; and

(25) Cause the Hotel Project to be completed timely in accordance with the approved Construction Schedule.

5.6 Construction of Hotel Project.

(a) Construction Schedule. Owner agrees subject to events of Force Majeure to cause the Commencement and Completion of Construction of the Hotel Project to occur in accordance with the Construction Schedule.

(b) Permit Approvals. Owner shall make, or cause to be made, application for any necessary permits and approvals required by City and any applicable governmental authorities to be issued for the construction of the Hotel Project. Owner shall require the design and construction of the Hotel Project to be undertaken in accordance with Applicable Law and in accordance with the Approved Plans.

(c) Payment and Performance Bonds. Owner shall cause the Contractor to provide payment bonds and performance bonds for the construction of the Hotel Project to ensure completion of the Hotel. At the request of the City, the Owner shall name the City as a dual obligee on the payment and performance bonds.

(d) Project Inspection. City shall have the right to inspect the Hotel Project to determine whether the Hotel Project design and construction is in accordance, to the best of City’s good-faith understanding, with the Approved Plans and the Applicable Law.

5.7 Project Records and Audits.

(a) Owner shall keep and cause Development Manager and each Contractor to keep, a complete and accurate record to document the performance of the Hotel Project Work and to expedite any audit that might be conducted by the City, or its authorized representatives.
(b) Owner shall maintain, and cause the Development Manager and Contractor to maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement; and Owner shall make, and cause Development Manager and Contractor to make such materials available to the City for review and inspection during the term of this Agreement and for a period of four (4) years from the date of Completion of Construction of the Hotel Project, or until any pending litigation or claims are resolved, whichever is later.

(c) Owner shall provide and shall cause Development Manager and Contractor to provide City access to all Hotel Project records that are applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

(d) Upon completion of the Project, Owner shall provide the City with a complete set of “As Built” plans for the Hotel and other Project improvements.

5.8 Project Easements. To the extent not already addressed in the REA, the Parties agree to cooperate in good faith to grant to each other, without additional consideration, such easements as may be necessary to allow the efficient operation of the Hotel and Convention Center Project (including, but not limited to, right-of-way, utility, access, drainage, and cross-parking easements); provided however, nothing in this Section is intended to impose on any Party an obligation to grant any easement if such easement would materially interfere with the grantor’s use or intended use of its own property. Anticipated easements are for access to the Hotel site and Convention Center site; for construction easements in order to help facilitate the construction of the Hotel Project; for utility access as needed for the Hotel and Convention Center Project; and for parking relating to the Hotel and Convention Center. Notwithstanding the foregoing, the City shall not be required to acquire any easement for the Project, other than as set forth in the REA.

5.9 Insurance. Owner shall cause the City to be named as an additional insured under its insurance policies, including a policy insuring its indemnity obligations in favor of the City under this Agreement. Owner shall provide City with a copy of said insurance policies within five working days of its procurement.

ARTICLE VI
INDEMNIFICATION

THE CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF THE OWNER PURSUANT TO THIS AGREEMENT. THE OWNER HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, GOVERNING MEMBERS, OFFICIALS, EMPLOYEES, ATTORNEYS, AGENTS, AND REPRESENTATIVES (COLLECTIVELY REFERRED TO IN THIS SECTION AS “CITY INDEMNIFIED PERSONS”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY. THE OWNER DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING
COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM THE OWNER'S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF THE OWNER, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT, (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OR WILLFUL ACT OF THE CITY).

ARTICLE VII
OWNER AND CITY AGREEMENTS

7.1 Hotel Project Financing. The Owner has requested the assistance of the Arizona Industrial Development Authority (the "Authority"), an Arizona nonprofit corporation designated as a political subdivision of the State of Arizona, incorporated with the approval of the Arizona Finance Authority, pursuant to the provisions of the Constitution and law of the State of Arizona and the Industrial Development Financing Act, Title 35, Chapter 5, Articles 1 through 5, Arizona Revised Statutes, as amended (the "Act"), to issue its revenue bonds in one or more series from time to time, in an aggregate principal amount not to exceed $[32,000,000] (the "Bonds"), the proceeds of which will be used to make a loan to the Owner to (a) finance or refinance the costs of acquiring, designing, constructing and equipping the Hotel, (b) finance or refinance reserves, initial operating costs and other required amounts in connection therewith, and (c) finance or refinance costs of issuance of the Bonds. THE BONDS WILL NOT BE OBLIGATIONS OF THE CITY AND THE CITY SHALL HAVE NO LIABILITY OR OBLIGATION TO PAY OR PROVIDE FOR THE PAYMENT OF THE BONDS. The Bonds shall be payable solely from the revenues generated from the operation of the Hotel.

7.2 Disposition of the Hotel Project. Owner has agreed to own, operate, construct, manage and dispose of the Hotel Project for the exclusive benefit of the City to alleviate the Governmental Burden. It is intended that this Agreement create a trustee/beneficiary relationship between the Owner and the City; with the Owner being the trustee and the City the beneficiary. Owner is and at all times shall hold the Hotel and the Real Property in trust for the benefit of the City, and absent the City’s election to the contrary as set forth below, upon payment in full of the Bonds, legal title to the Hotel and the Real Property will be transferred to the City without any further consideration. The Owner represents and warrants that it cannot own and operate the Hotel except in trust for the benefit of the City and in order to assist the City with alleviating its Governmental Burden as defined herein, and, as such, (i) if the City sells the Convention Center, or (ii) upon payment in full of the Bonds, Owner shall be required to take one of the following actions, as elected by the City, in its sole discretion, by written notice to the Owner:

(a) Transfer the Hotel to the City or to a governmental agency designated by the City;
(b) Transfer the Hotel to a third party and donate the proceeds derived from the sale to the City or to a governmental agency designated by the City; or

(c) Only in the case where the Bonds are paid in full, at the request of the City, continue to operate the Hotel for the benefit of the City, and grant or donate to the City all surplus cash flow derived from the continued operation of the Hotel.

(d) The foregoing provisions of Section 7.2 shall be covenants running with the Real Property, and may not be deleted or amended by the Owner or any other person or entity, including without limitation the trustee for the benefit of the Bond holders, or any person or entity acquiring the Real Property and the Hotel following a foreclosure or deed in lieu of foreclosure, without the City’s prior written consent, which may be granted or withheld in its sole discretion. The City shall have the right but not the obligation to consent. Owner will record an instrument approved by the City encumbering the Real Property with the restrictions and covenants set forth in the Section 7.2, which restrictions and covenants shall be covenants running with the land and binding on Owner, and its successors and assigns.

7.3 City Nominees. The Owner shall have not less than five (5) directors serving on its board of directors, and not less than three (3) members serving on its Hotel operating committee. The City agrees to provide Owner with a list of nominees, which may include without limitation a representative of the City’s convention and visitors bureau, economic development, tourism or commerce department, for selection of one person to be appointed to (i) Owner’s board of directors; and/or (ii) Owner’s Hotel operating committee, which committee shall work with the Hotel operator, to develop annual operating budgets, capital expenditure budgets and other operating issues, and make recommendations and approvals to the Owner’s board of directors regarding the annual operating budgets and capital expenditure budget. The corresponding provisions in Owner’s operating agreement regarding the City’s representation on the board of directors and/or the Hotel operating committee may not be changed by the Owner without the City’s prior written consent, which may be granted or withheld in its sole discretion. The City shall have the right but not the obligation to consent, in its sole discretion.

ARTICLE VIII
BOOKING AGREEMENT

8.1 Booking Agreement. The City and the Owner agree that the Hotel room block commitment and procedures set forth on Exhibit A hereto will apply to the Hotel, allowing the City in connection with the operation of the Convention Center to have room booking and blocking rights in connection with the operation of the City’s Convention Center. The intent of this arrangement is to provide the City with preferential rights to book and block Hotel rooms in connection with the meetings and conventions to be booked and held at the City’s Convention Center. The Hotel operator shall be bound by the terms and conditions set forth in Exhibit A hereto. The provisions of Exhibit A are required in order for the Convention Center to have access to Hotel rooms when planning and booking events, conferences and conventions.
ARTICLE IX
REPRESENTATIONS

9.1 Owner’s Representations and Warranties. The Owner represents and warrants to City that notwithstanding anything herein to the contrary and as of the Effective Date.

(a) Organization. The Owner is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Arizona. The business which the Owner carries on and which it proposes to carry on may be conducted by the Owner. The Owner is duly authorized to conduct business as a limited liability company in the State of Texas and each other jurisdiction in which the nature of its properties or its activities requires such authorization.

(b) Authority. The execution, delivery and performance of this Agreement by the Owner are within the Owner’s powers and have been duly authorized by all necessary action of the Owner.

(c) No Conflicts. Neither the execution and delivery of this Agreement nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene the organizational documents of the Owner nor any Applicable Laws to which the Owner is subject or any judgment, decree, license, order or permit applicable to the Owner, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of a lien upon any of the property or assets of the Owner pursuant to the terms of, any indenture, mortgage, deed of trust, agreement or other instrument to which the Owner is a party or by which the Owner is bound, or to which the Owner is subject.

(d) No Consent. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the execution, delivery and performance by the Owner of this Agreement.

(e) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of the Owner, enforceable against the Owner in accordance with its terms, except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

(f) No Pending Litigation, Investigation or Inquiry. There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of the Owner, threatened against or affecting the Owner, which the management of the Owner in good faith believe that the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of the Owner under, this Agreement to perform its obligations under this Agreement, or (b) have a material and adverse effect on the consolidated financial condition or results of operations of the Owner or on the ability of the Owner to conduct its business as presently conducted or as proposed or contemplated to be conducted.
9.2 **Conflict of Interest.** No member of the City Commission or other officer or employee of City has any interest in this Agreement or the Owner (and any of its affiliates) nor is a surety for any bond or other security for the Hotel Project Work.

9.3 **City's Representations and Warranties.** City represents and warrants to the Owner that notwithstanding anything herein to the contrary and as of the Effective Date:

(a) **Organization.** City is a home rule municipal corporation of the State of Texas, organized pursuant to Chapter 26, Subtitle B, of the Texas Local Government Code with all necessary power and authority to enter into this Agreement and to consummate the transactions herein contemplated.

(b) **Authority.** The execution, delivery and performance of this Agreement by City are within City's powers, and have been duly authorized by all necessary action of under Applicable Law;

(c) **No Conflicts.** Neither the execution and delivery of this Agreement nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene any Applicable Laws to which City is subject or any judgment, decree, license, order or permit applicable to City, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of a lien upon any of the property or assets of City pursuant to the terms of any agreement or instrument to which City is a party or by which City is bound, or to which City is subject;

(d) **No Consent.** Upon the execution of this Agreement by City, City will have caused all governmental proceedings required to be taken by or on behalf of City to authorize City to make and deliver this Agreement and to perform the covenants, obligations and agreements of City hereunder. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the execution or delivery of this Agreement by City or the performance by City of its covenants, obligations and agreements hereunder, other than any such Approval which already has been given;

(e) **Valid and Binding Obligation.** This Agreement is the legal, valid and binding obligation of City, enforceable against City in accordance with its terms, except as limited by (i) applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time or (ii) any limitations or restrictions applicable to City as the result of being a subdivision of the state of Texas; and

(f) **No Pending Litigation, Investigation or Inquiry.** There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of City, threatened against or affecting City, which City in good faith believes that the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of City under, this Agreement to perform its obligations under this Agreement, or (b) have a material
ARTICLE X
DEFAULTS AND REMEDIES

10.1 Event of Default. The occurrence of any of the following will be an "Event of Default" by the Owner:

(a) Any representation or warranty confirmed or made in this Agreement by the Owner was untrue in any material respect as of the Effective Date;

(b) The failure of the Owner to keep, observe or perform any of the terms, covenants, obligation or requirement contained in this Agreement on the Owner's part to be kept, performed or observed (other than those referred to in clause (a) above) if such failure is not remedied by the Owner within 30 calendar days after notice from City of such default or if such default cannot be reasonably cured within such 30-day period, the failure either (i) to commence to cure such default within such thirty (30)-day period and to diligently continue to pursue such efforts to cure to completion, or (ii) to cure such default within a reasonable time after the expiration of the first thirty (30)-day period, in no event to exceed ninety (90) days after the written notice of default;

(c) The (1) filing by the Owner of a voluntary petition in bankruptcy; (2) adjudication of the Owner or any such Affiliate Transferee as a bankrupt; (3) approval as properly filed by a court of competent jurisdiction of any petition or other pleading in any action seeking reorganization, rearrangement, adjustment or composition of, or in respect of the Owner under the United States Bankruptcy Code or any other similar state or federal law dealing with creditors' rights generally; (4) the Owner's assets are levied upon by virtue of a writ of court of competent jurisdiction; (5) insolvency of the Owner; (6) assignment by the Owner of all or substantially all of its assets for the benefit of creditors; (7) initiation of procedures for involuntary dissolution of the Owner, unless within 90 calendar days after such filing, the Owner causes such filing to be stayed or discharged; (8) the Owner ceases to do business; and (9) appointment of a receiver, trustee or other similar official for the Owner or the property of Owner, unless within 90 calendar days after such appointment, the Owner causes such appointment to be stayed or discharged.

(d) The entry of a final, non-appealable judgment against Owner, which judgment contains a finding that any of the committed fraud and/or embezzlement. There is specifically excluded from this clause (d) the entry of a settlement or other agreement disposing of a lawsuit in which no fault or wrongdoing is admitted.

10.2 City's Remedies. Upon the occurrence of any Event of Default, or in any claim against the Owner, City may, in its sole discretion, pursue any one or more of the following remedies after delivery of Notice to the Owner:

(a) Upon the occurrence of an Event of Default by Owner, the City may pursue any legal or equitable remedy or remedies, including, without limitation, specific performance,
damages, (including reasonable attorneys’ fees), and termination of this Agreement. Termination or non-termination of this Agreement upon an Event of Default of Owner shall not prevent the City from suing Owner for specific performance, damages, injunctive relief or other available remedies with respect to obligations that expressly survive termination. Upon termination by the City, the City may, but shall have no obligation to, develop (or engage another party to develop), or occupy, the Hotel Project, and Owner shall assign to the City any of its contracts and agreements related to the Hotel Project requested by the City to be so assigned.

(b) If City terminates the Agreement for an uncured Event of Default by Owner, City may, but shall have no obligation to, take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by Owner; accept assignment of the Construction Contract and subcontracts; and finish the Work by whatever reasonable method the City may deem expedient.

10.3 No Indirect Damages. EXCEPT AS SET OUT SPECIFICALLY IN THIS AGREEMENT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM SUCH PARTY’S OWN, SOLE OR CONCURRENT NEGLIGENCE OR THE NEGLIGENCE OF ANY OF ITS EMPLOYEES, OFFICERS, OR AGENTS ACTING IN THEIR OFFICIAL CAPACITY, AFFILIATES OR RELATED PARTIES; PROVIDED THAT WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY WILL NOT APPLY TO CLAIMS OF EACH PARTY ARISING OUT OF THIRD PARTY CLAIMS FOR ANY OF THE FOREGOING.

10.4 No Waivers. No failure or delay of any Party in exercising any power, right or remedy under this Agreement or in insisting upon the strict performance by the other Party of such other Party’s covenants, obligations or agreements under this Agreement, will operate as a waiver, discharge or invalidation thereof.

ARTICLE XI
MISCELLANEOUS

11.1 Notices. Any Notice must be in writing and may, unless otherwise in this Agreement expressly provided, be given or be served (a) by depositing the same in the United States Mail, postage paid and registered or certified and addressed to the party to be notified, with return receipt requested, with a copy addressed to the party to be notified sent by first class mail postage prepaid, or (b) by personally delivering the same to such party or to an officer or agent of such party, or (c) by use of Federal Express or similar delivery service with receipt for delivery, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described will be deemed to have been delivered and be effective from and after the expiration of 4 days after it is so deposited. Notice given in any other manner will be deemed to have been delivered and be effective only if and when received or refused by the party to be notified. For purposes of Notice, the addresses of the parties, until changed as hereinafter provided, will be as follows:
City: City of Harlingen, Texas
118 E. Tyler
Harlingen, Texas 78550
Attn: Dan Serna, City Manager

with a copy to:

City of Harlingen, Texas
118 E. Tyler
Harlingen, Texas 78550
Attn: Ric Navarro--Denton, Navarro, Rocha, Bernal, & Zech, City Attorney

Owner:
Provident Group-Harlingen Properties LLC
c/o Provident Resources Group Inc.
5565 Bankers Avenue
Baton Rouge, Louisiana 70808
Attn: President

with a copy to: Louis Quinn Jr.
Fishman Haygood LLP
100 North Ave. Suite 800
Baton Rouge, LA 70802

However, each of the parties named in this Section as being entitled to receive Notices will have the right from time to time to change their respective addresses, and each will have the right to specify as its address any other address within the United States of America, by at least 5 days written Notice to each such other party.

11.2 Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

11.3 Independent Contractor. It is understood and agreed by and between the parties that in satisfying the conditions of this Agreement, Owner is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Owner pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Owner shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

11.4 Nature of Contract. The relationship between City and Owner under the terms of this Agreement will be that of independent parties, and notwithstanding anything to the contrary set forth herein, Owner will perform its duties and provide the services contemplated by this Agreement as an independent contractor. Except as expressly provided to the contrary in this Agreement, it is agreed that City is concerned only with the result of the performance of such duties and provision of such services and is not directing Owner as to particular means and methods of performing such duties and providing such services. Nothing contained in this
Agreement or in the relationship of City and Owner will be deemed to constitute a partnership, joint venture or any other similar relationship.

11.5 **Governing Law.** This Agreement is governed by and construed in accordance with the laws of the state of Texas without regard to any choice of law rules. Exclusive venue for any cause of action hereunder will be in the state and federal courts of Cameron County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said courts.

11.6 **No Waiver; Cumulative Remedies.** The failure of City or Owner to seek redress for violation, or to insist upon the strict performance of any covenant, agreement, provision or condition of this Agreement, will not constitute a waiver of the terms of such covenant, agreement, provision or condition at subsequent times or of the terms of any other covenant, agreement, provision or condition, and City and Owner will have all remedies provided herein and by applicable law with respect to any subsequent act which would have originally constituted a violation.

11.7 **Consents.** In the event any City consent is required pursuant to the provisions of this Agreement and City does not respond to any request by Owner for such consent within three (3) business days (or such longer consent period applicable to such request for consent) after such request is made to such City, such failure to respond shall be deemed a consent.

In the event that a longer consent period is required by the City a response given within three (3) business days so indicating and advising when the final response to the request for consent will be given, shall satisfy the requirements of this section.

11.8 **Partial Invalidity.** If any provisions of this Agreement, or the application thereof to any particular party or circumstance, will to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to any other particular party or circumstance, will be valid and enforceable.

11.9 **Captions.** The captions under the Article numbers and beside the Section numbers of this Agreement are for convenience and reference only and in no way define, limit, or described the scope or intent of this Agreement, and in no way affect or constitute a part of this Agreement.

11.10 **Governmental Records.** All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

11.11 **Effect of Holidays; Business Days.** In the event any date specified or computed under this Agreement for the performance of an obligation by any party hereto, or for the occurrence of any event provided for herein, will be a Saturday, Sunday or “recognized holiday” (defined for purposes hereof as any holiday observed by national banking associations), then the date for such performance or occurrence will automatically be extended to the next calendar day which is not a Saturday, Sunday or recognized holiday. As used herein, the term “Business Day” means any day other than Saturday, Sunday and any day which is a “recognized holiday” (as
defined above). If the time for performance of any obligation hereunder expires on a day that is not a business day, the time for performance will be extended to the next business day.

11.12 No Third-Party Beneficiaries; Collateral Assignment Permitted. The respective rights and obligations of City and Owner set forth in this Agreement are intended to be for the exclusive benefit of the Party to this Agreement enjoying such right or of the obligee of such obligation, respectively, and it is not the intention of either City or Owner to create, and this Agreement shall not operate or be construed to create, any third party beneficiary rights or other rights in favor or any person or entity other than City and Owner, respectively, and their respective permitted successors and assigns, if any, under the terms of this Agreement. Notwithstanding the foregoing, the Parties consent to Owner’s collateral assignment of this Agreement to a trustee or other secured party in connection with the issuance of the Bonds or the financing of the Hotel Project.

11.13 Recitals. The recitals to this Agreement are incorporated herein.

11.14 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

11.15 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

11.16 Ordinance Applicability. The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising; provided, however, no ordinance shall reduce or diminish the contractual obligations contained herein.

11.17 Boycott Israel. To the extent required by Texas Government Code Chapter 2270 Owner agrees not to boycott Israel as that term is defined in Texas Government Code Section 808.001 (1).

[Signature page to follow]
EXECUTED this ___ day of October 2018.

CITY:

City of Harlingen, Texas,
a Texas home rule municipal corporation

By: ____________________________
Print Name: ______________________
Title: ____________________________

EXECUTED this ___ day of October 2018.

OWNER:

Provident Group-Harlingen Properties LLC
an Arizona limited liability company

By: Provident Resources Group Inc.,
Its sole member

By: ____________________________
Print Name: ______________________
Title: ____________________________

[Signature Page to Cooperation and Development Agreement]
EXHIBIT A

HOTEL ROOM BLOCK COMMITMENT AND PROCEDURES

DEFINITIONS

“Binding Contract” means the contract between Potential Convention Center Customer and Owner that sets forth the terms and conditions under which Owner will make an Event Room Block available to the attendees of a specific Convention Center Event.

“Convention Center Event” means a convention, trade show, or other event to be held at the Convention Center during which a Potential Convention Center Customer, in anticipation of the event, requests the Hotel to provide a minimum of 80 rooms for one day or more while such event is being held.

“Event Night” means a night during a Convention Center Event when the out-of-town participants of such Convention Center Event would reasonably be staying overnight in the City.

“Event Room Block” means a block of guest rooms in the Hotel for a series of nights that are offered to or reserved for a Convention Center Event.

“Hotel Free-Sell Calendar” means dates, as mutually agreed to from time-to-time by the Owner and the City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center), available to the Hotel for the licensing or leasing of Hotel rooms that are outside the parameters of this Exhibit A. The following dates will be included in the Hotel Free-Sell Calendar, until further modified by the Parties: (i) the following holiday dates encompassing no more than a total of three (3) days each: Memorial Day, Labor Day, Good Friday, and Easter and (ii) the period December 20-25 and December 28-January 2.

“Initial Offer” has the meaning set forth in Section 2 hereof.

“Maximum Event Room Block” means (i) 40 rooms for a Convention Center Event whose first Event Night is scheduled to occur thirty-six (36) calendar months or more from the Initial Offer and (ii) 30 rooms for a Convention Center Event whose first Event Night is scheduled to occur between twenty-four (24) calendar months to the end of the thirty-fifth (35th) calendar month from the Initial Offer.

“Potential Convention Center Customers” or “Customer” means a person, entity, group, or association (or any combination thereof) that is planning an event at the Convention Center.

ROOM BLOCK COMMITMENT AND PROCEDURES

During the Term, the City, acting through its designated representative, which, for purposes of this Exhibit A, may be the manager of the Convention Center, may request Owner to offer an Event Room Block to Potential Convention Center Customers in accordance with this Exhibit A provided that the total number of rooms requested to be blocked does not exceed the number of rooms available for the Event Room Block on such night, as provided in Section 2.
below. The right to request that Owner offer the Event Room Block will be exercised in 
accordance with the following procedures:

1. The City’s designated representative, which, for purposes of this Exhibit A, may 
be the manager of the Convention Center, will notify Owner that a Potential Convention Center 
Customer is seeking offers from local hotels to accommodate, among other needs, the guest 
room needs of the Potential Convention Center Customer for a Convention Center Event 
(the “Room Block Request Notice”). The Room Block Request Notice will (i) identify the 
Potential Convention Center Hotel Customer, (ii) if the same is generally available to the City, 
set forth a documented history of the group’s room block events for the most recent three year 
period including a comparison of the number of rooms blocked and the actual number of rooms 
actually used, (iii) specify each specific date for which the Potential Convention Center Customer 
will require blocks of guest rooms (including those dates commonly known as "move in" and 
"move out" dates; the rate for groups whose stay consists of both midweek and weekend days 
shall be determined in accordance with Owner’s booking policies described in Section 2 below), 
and (iv) specify the number of guest rooms the Potential Convention Center Customer is seeking 
to block on each of the specific dates. The Room Block Request Notice will be communicated to 
Owner by the City’s designated representative (which, for purposes of this Exhibit A, may be the 
manager of the Convention Center) via email or fax to the specific email address or fax number 
designated by Owner for the purpose of receiving Room Block Request Notices.

2. Within the later of three (3) business days after Owner’s receipt of the Room 
Block Request Notice for a Convention Center Event or the due date specified in the Room Block 
Request Notice, Owner shall deliver to the Potential Convention Center Hotel Customer (with a 
copy to the City’s designated representative, which, for purposes of this Exhibit A, may be the 
manager of the Convention Center) an initial written offer in response to the Room Block 
Request Notice (the "Initial Offer"). In the Initial Offer, Owner will (i) offer to the Potential 
Convention Center Customer to block, on each specific date that the Potential Convention Center 
Customer requires a block of guest rooms as specified in the Room Block Request Notice, the 
lesser of (y) the actual number of the guest rooms in the Room Block Request Notice for each 
specific date, or (z) the Maximum Event Room Block, less any previously offered room blocks 
under this Agreement for other Convention Center Events covering such dates, which offers have 
either been accepted or are still outstanding, and (ii) quote a room rate for both a standard single 
and double room (the "Rate Quote"). In making the Rate Quote, Owner will take into account 
potential growth in future rates, seasonality (i.e., using group event guest room rates received in 
a calendar month as the basis for quotes for the same month in subsequent calendar years), 
midweek versus weekend rates, as well as catering revenue per group room night. While the 
amount of the Rate Quote in the Initial Offer will be at the sole but good faith discretion of 
Owner, the Owner agrees that the Rate Quote shall be reasonable in its discretion and be 
competitive with (i) comparable convention center hotels in competing city markets with a 
similar product quality and/or (ii) comparable hotels in the City of Harlingen and surrounding 
areas with a similar product quality. The Initial Offer shall remain open for acceptance for a 
period of 45 days. If after the time the Initial Offer expires, the Potential Convention Center 
Customer has not accepted the Initial Offer, the initial Offer can be extended by mutual 
agreement for an additional 30 days. Notwithstanding the foregoing, if a competing opportunity 
is prepared to execute a binding contract for rooms at the Hotel, the Potential Convention Center
Customer will have a right of first refusal on the block of rooms offered at the Rate Quote for a period of five (5) days from the time Potential Convention Center Customer is notified of the competing opportunity. The Initial Offer shall expire thereafter.

3. After reviewing the Initial Offer, the City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) may consult with Owner regarding the Rate Quote contained in the Initial Offer; however, the Owner has sole discretion to quote room rates and meeting space allocations.

4. If the Initial Offer is accepted by the Potential Convention Center Customer within the required time period established in accordance with Section 2, then Owner shall use its reasonable efforts to promptly negotiate a binding contract with the Potential Convention Center Customer, applying Owner’s customary booking policies to the block, including policies relating to contracts, advance deposits, cancellation, attrition and food and beverage minimums provided that these policies shall adhere in all material respects to the general customs employed by Owner at its other hotels of similar size, quality and brand.

5. If the Customer has not executed a binding contract within thirty (30) days following the acceptance by the Customer of the Initial Offer, then the Initial Offer will expire unless extended by Owner at its sole discretion. Upon expiration, Owner shall have no further obligation to the City or Potential Convention Center Customer in regard to such Convention Center Event under the Initial Offer.

6. If a Potential Convention Center Customer signs a binding contract with Owner but provides written notice to the Owner that it is terminating the contract on a date that is less than twenty-four (24) months before the first Event Night, then the cancelled room and meeting space block will be returned to Hotel inventory at the time of effective cancellation and availability will no longer be subject to the terms of this Agreement. City recognizes that the Owner may be entitled to collect cancellation fees from such Potential Convention Center Customer under the terms of the Binding Contract with such Customer, and City hereby agrees that such fees are the sole property of the Hotel. Similarly, Owner recognizes that City may be entitled to collect cancellation fees from such Potential Convention Center Customer pursuant to a contract between City and the Potential Convention Center Customer for the Convention Center, and Owner hereby agrees that such fees shall be the sole property of City. Neither Party has the authority to negotiate with a Potential Convention Center Customer the other Party’s cancellation fee.

7. If Owner desires to commit a block of more than 80 of the rooms in the Hotel to non-Convention Center business for a date more than thirty-six (36) months in the future, or a block of more than 100 of the rooms in the Hotel to non-Potential Convention Center Customer business for a date more than twenty-four (24) and less than thirty-six (36) months in the future, Owner can request by notice to the City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) that City release that block from this Agreement and City may (but shall have no obligation to) approve such a release of such requested block. The City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) will respond to the Owner’s notice within ten
(10) business days. Notwithstanding the above, the Owner will be allowed up to seven (7) booking exceptions, limited to a maximum of four (4) nights each, for group events to occur in each rolling twelve (12) month period from the date of the receipt of the booking inquiry/lead for a group event. The Owner will inform the City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) of these exceptions as they become tentative and will further confirm these exceptions as they become definite with the Owner. These exceptions are exclusive of the exceptions available through the Hotel Free-Sell Calendar.

8. Owner shall have the unrestricted right to commit rooms within the Hotel that would not leave less than the Maximum Event Room Block on any given date (and any other rooms that are not subject to being blocked by City pursuant to this Agreement) to the Hotel’s commercial or group guests. Owner shall also have the unrestricted right to commit any and all rooms not subject to a room block commitment pursuant to this Agreement for any period less than twenty-four (24) months in advance. Owner shall also have the unrestricted right to commit rooms that fall within the Hotel Free-Sell Calendar.

9. If Owner has a potential booking that would not be permitted under the terms of this Agreement, Owner may by notice to the City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) request that it be entitled to make such booking. The City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) shall have three (3) business days in which to respond to such request by notice to Owner, and the failure of the City to respond during such three (3) business day period shall be deemed a consent.

10. Owner shall have the right to freely book all rooms within the Hotel on any day which the Convention Center cannot accommodate a Convention Center Event because less than one-fourth of meeting space and/or exhibit hall, is available on such day for use by a Potential Convention Center Customer.

11. Notwithstanding the foregoing, if a Potential Convention Center Customer has a documented history of causing material property damage in connection with group events or poor credit, then Owner shall have the right to decline a Room Block Request for such customer hereunder upon notice to the City’s designated representative (which, for purposes of this Exhibit A, may be the manager of the Convention Center) given within ten (10) business days following the date of the Room Block Request Notice. In the event of any disagreement by the Parties, the Parties agree to meet and attempt in good faith to reach agreement as to whether to accept or decline the Potential Convention Center Customer.

12. Owner’s obligations under this Exhibit A may be delegated by Owner to the Hotel operator.

13. Exhibit A is material consideration for Owner entering into this Agreement.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Public hearing and take action to consider an Ordinance on First Reading to rezone from Residential, Single Family (“R-1”) District to Residential, Duplex (“R-2”) District for Lot 12, Block 89, Harlingen Original Townsite, located at 422 W. Polk Avenue. Applicant: Juan Leonel Torres.

Prepared By: Rodrigo Davila, CPM
Title: Planning and Development Director
Signature: [Signature]

Brief Summary:

Project Timeline

- September 9, 2018 – Application for rezoning submitted to the City (ATTACHMENT I).
- September 29, 2018 – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- October 10, 2018- Public hearing was conducted by the Planning and Zoning Commission (P&Z). The P&Z Commission recommended approval by a 5 to 0 vote.
- October 17, 2018 – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- November 7, 2018 – Public hearing and consideration of requested rezoning via 1st ordinance reading scheduled before the City Commission.
- November 21, 2018 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- Juan Leonel Torres, the applicant and property owner, is requesting to rezone the subject property from Residential, Single Family (“R-1”) District to Residential, Duplex (“R-2”) District to allow for a duplex on the property (ATTACHMENT II).

- There is an existing single family residence on the subject property. The future plans are to remove the existing single family residential structure and construct a new duplex on the property. The property has 50 feet of frontage on Polk Avenue and 140 feet of frontage on “D” Street (ATTACHMENT III-V).

- The surrounding properties are zoned General Retail (“GR”) District to the north, south and west, and Residential, Single Family (“R-1”) District to the east (ATTACHMENT II). The surrounding land uses consist of a beauty salon and “La Favorita” shoe repair shop to the north, “Rodriguez Tortilleria” to the south, a single residence and the Immaculate Heart of Mary Church CCE Center to the east, and multi-family residential land use to the west. (ATTACHMENT VI).
- The Future Land Use Plan (FLUP) component of the City of Harlingen Comprehensive One Vision One Harlingen shows this area as mixed use. Although the request is not consistent with the Future Land Use Plan, it is a lower intense zoning than the mixed use land use indicated on the Plan. It also consistent with the multi-family residential land use to the southwest and west.

- To the present, the Planning and Zoning Department has not received any objection from surrounding property owners for the proposed request.

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<th>Funding (if applicable):</th>
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<tr>
<td>Are funds specifically designated in the current budget for the full amount</td>
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<td>for this purpose?</td>
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<td>*If no, specify source of funding and amount requested:</td>
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<th>Staff Recommendation:</th>
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<th>City Attorney’s approval:</th>
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2
CITY OF HARLINGEN PLANNING AND ZONING DIVISION
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address: 422 W. Polk Ave, Nearest Intersection: W. Polk Ave and 8th St
(Proosed) Subdivision Name: Harlingen, TX 78550
Lot: 12, Block: 89
Existing Zoning Designation: Residential
Future Land Use Plan Designation: Duplex
Harlingen Original Townsite: Lot 12, Block 89

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)
Applicant/Authorized Agent: Juan Leonel Torres
Phone: 956-442-2518
Fax:
Email Address (for project correspondence only):
Mailing Address: 2002 Lazy Lane Dr, City: Harlingen, State: TX, Zip: 78550
Property Owner: Leonel Torres
Phone: 956-241-1380
Fax:
Email Address (for project correspondence only):
Mailing Address: 2002 Lazy Lane Dr, City: Harlingen, State: TX, Zip: 78550

Select appropriate process for which approval is sought. Attach completed checklists with this application.

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<th>Process Description</th>
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<td>Comp. Plan Amendment Request</td>
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<td>Re-zoning Request</td>
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<tr>
<td>SUP Request/Renewal</td>
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<td>Zoning Variance Request (ZBA)</td>
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<td>PDD Request</td>
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<td>Re-plat</td>
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<tr>
<td>Vacating Plat</td>
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<tr>
<td>Development Plat</td>
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<tr>
<td>Subdivision Variance Request (each)</td>
<td>$25.00</td>
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Please provide a basic description of the proposed project: I am proposing to change the above address from residential to a duplex.

I hereby certify that I am the owner and/or duty authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. I further certify that any of the information provided on this application is incorrect, the permit or approval may be revoked.

Applicant's Signature: ____________________________ Date: 09-08-18

Property Owner(s) Signature: ____________________________ Date: 09-08-18

Accepted by: ____________________________ Date:
### RE-ZONING REQUEST SUBMITTAL CHECKLIST

Please submit the following items along with the completed master application and appropriate fees. The project cannot be scheduled for consideration unless all items are marked complete. Citations come from the Zoning Ordinance.

Complete
- A metes and bounds description or survey plat of the tract(s) in which the re-zoning is requested.
- City and School Tax Certificates
- A written statement describing the proposed use(s) of the subject property (can be provided on Master Application).
- Any other information (elevation drawings, pictures, etc.) in support of the subject request.

- I understand that I am requesting an amendment to the City's Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.
- I understand that in accordance with State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
  - A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
  - Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.
- I understand that while all requirements for the submittal of a re-zoning request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.

Owner: [Signature]
Date: 9-10-18
Owner Address: 2602 Long Lake Harlingen TX 78550
Phone/Fax: [Signature]
Request of Juan Leonel Torres to rezone from Residential, Single Family ("R-1") District to Residential, Duplex ("R-2") District for Lot 12, Block 89, Harlingen Original Townsite Subdivision, located at 422 W. Polk Avenue.
Attachment III

View from the South (Front View) on Polk Ave.
View from the East on Polk Avenue
Attachment V

View from the West on Polk Avenue
Future Land Use Map

A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources.

This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 10.3.18.
ORDINANCE NO. 18

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM RESIDENTIAL, SINGLE FAMILY (“R-1”) DISTRICT TO RESIDENTIAL, DUPLEX (“R-2”) DISTRICT FOR LOT 12, BLOCK 89, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION, LOCATED AT 422 W. POLK AVENUE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

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

BE IT ORDAINED BY THE CITY OF HARLINGEN

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

Rezoning from Residential, Single Family (“R-1”) District to Residential, Duplex (“R-2”) District for Lot 12, Block 89, Harlingen Original Townsite Subdivision, located at 422 W. Polk Avenue.
A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Building Inspection Inspector and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within by the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

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

FINALLY ENACTED this ______ day of ____________, 2018 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

CITY OF HARLINGEN

______________________________
Chris Boswell, Mayor

ATTEST:

______________________________
Amanda C. Elizondo, City Secretary
Request of Juan Leonel Torres to rezone from Residential, Single Family ("R-1") District to Residential, Duplex ("R-2") District for Lot 12, Block 89, Harlingen Original Townsite Subdivision, located at 422 W. Polk Avenue.

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 09/28/16.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consider and take action to award a loan utilizing Community Development Block Grant funds to provide for the home reconstruction for Mr. Rangel for his home located at 922 W. Grant; Mr. Bermudez for his home located at 1213 W. Grant, and for Mr. Ramirez for his home located at 417 W. Marjory.

Prepared By (Print Name): Tammy Jackson
Title: Community Development Director
Signature: [Signature]

Brief Summary:
The Community Development Department provides Housing Reconstruction financial assistance in the form of loans utilizing HUD funding. This program is designed to execute the demolition of dilapidated or substandard owner occupied housing units that are unsuitable for rehabilitation through the Community Development’s Housing Rehabilitation/Reconstruction program, and construct new homes on the same footprint.

On behalf of the homeowners, Community Development Staff established housing reconstruction bid specifications. A Notice to Bidders was published in the Valley Morning Star and posted on our web site to receive bids for the cost to build a 2 bedroom, 1 bath home. The notice was sent via email to over 100 companies on our bid list (in addition to the publications and postings), 16 companies either picked up or requested a bid packets be emailed, of which 6 companies responded to the call for bids.

The Community Development Department requests authorization to provide assistance to the homeowners for the reconstruction of three homes. Attached is the bid tabulation sheet established during the bid opening.

For elderly head of household applicants over the age of 71, the first $25,000.00 is forgiven annually at a rate of $25,000.00/annually at a rate of 1/5th and the rate of 1/10th for any remaining balance.

For disabled head of households, the first $18,000.00 is forgiven annually at a rate of 1/10th and the remaining balance will be in the form of a loan to be paid monthly.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount x Yes No*
*If no, specify source of funding and amount requested:

Finance Director’s approval: □ Yes □ No □ N/A

Staff Recommendation:
Approve assistance to Mr. Rangel, Mr. Bermudez, and Mr. Ramirez to the lowest responsible bidder, RG Enterprises dba G&G Construction.

City Manager’s approval: □ Yes □ No □ N/A

Comments:

City Attorney’s approval: □ Yes □ No □ N/A
Home constructed on each property will be a 2 bedroom brick home with one bath, ceramic flooring, and central air and heat. In addition to the construction and demolition costs, homeowners will receive a grant for all soft costs such as recording fees, windstorm design, environmental documents, recording fees, inspections, and property insurance (first year only).

#1
Applicant: Mr. Ignacio Rangel, elderly disabled head of household  
Family size: 1
Address: 922 W. Grant, Harlingen, TX  
Assistance: Reconstruction Loan (1% interest)

Low Bid Amount: $73,900.00  
Demolition of existing structure: $5,200.00  
Total Construction Assistance Amount: $79,100.00

Form of assistance:
- Demolition Grant: $5,200.00  
- Deferred Loan (10 years) (forgiven @ $2,500.00 per year): $25,000.00  
- Deferred Loan (10 years) (forgiven @ $1,800.00 per year): $18,000.00  
- Low Interest Loan (1%): $30,900.00

Applicant must reside in the home for 10 years at a minimum or until the low interest loan is paid in full. Taxes and insurance will be escrowed through the Community Development Department.

#2
Applicant: Mr. Faustino Bermudez, elderly head of household  
Family size: 1
Address: 1213 W. Grant, Harlingen, TX  
Assistance: Reconstruction Loan (0% interest)

Mr. Bermudez has requested that the bid be awarded to RG Enterprises with the square footage reduced to 1,044 sf, covered porch to 240 sf, and covered patio to 104 sf.

Low Bid Amount: $85,900.00  
Demolition of existing structure: $6,900.00  
Total Construction Assistance Amount: $92,800.00

Form of assistance:
- Demolition Grant: $6,900.00  
- Deferred Loan (5 years) (forgiven @ $5,000.00 per year): $25,000.00  
- Deferred Loan (10 years) (forgiven @ 10% per year): $50,900.00

The applicant must reside in the home for 10 years. Taxes and insurance will be escrowed through the Community Development Department.

#3
Applicant: Mr. Tranquilino Ramirez, Jr., disabled head of household  
Family size: 1
Address: 417 W. Marjory, Harlingen, TX  
Assistance: Reconstruction Loan (1% interest)

Low Bid Amount: $72,400.00  
Demolition of existing structure: $4,100.00  
Total Construction Assistance Amount: $76,500.00

Form of assistance:
- Demolition Grant: $4,100.00  
- Deferred Loan (10 years) (forgiven @ $1,800.00 per year): $18,000.00  
- Low Interest Loan (1%): $54,400.00

Applicant must reside in the home for 10 years at a minimum or until the low interest loan is paid in full. Taxes and insurance will be escrowed through the Community Development Department.
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<thead>
<tr>
<th>Project</th>
<th>AM PM Construction</th>
<th>RG Enterprises</th>
<th>Grunet Construction</th>
<th>Jesus Guerro Sharpline Coatings</th>
<th>Joe Castillo</th>
<th>KDM Building Solutions</th>
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EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consider and take action to authorize the Harlingen Police Department to go into a Service Agreement with A-USA JAIL SERVICES for Jail Phones at the Harlingen City Jail.

Prepared By (Print Name): Jeffry A. Adickes
Title: Chief of Police
Signature: [Signature]

Brief Summary:
The Harlingen Police Department would like to enter into an Agreement with A-USA JAIL SERVICES to provide inmate telephone services to inmates incarcerated at the City Jail. The term of the agreement will be for a 5 year term. Notice of non-renewal must be in writing 90 days before end of the existing term. Provider will forward monthly payment of 35% to the subscriber (City of Harlingen). The Provider will provide a comprehensive ITS that will allow for collect, prepaid collect and debit/calling card calls for local, Intralata/intrastate, interlata/intrastate, interlata/interstate, and international calls. Provider will be responsible for Installation, System Functionality, Equipment Service and maintenance of the phones. Either party may terminate this Agreement for cause prior to expiration of the initial term if there is an alleged breach of term(s) by the offending party.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount for this purpose? X Yes No*
*If no, specify source of funding and amount requested:
Finance Director’s approval: Yes No N/A

Staff Recommendation:

City Manager’s approval: Yes No N/A

Comments:

City Attorney’s approval: Yes No N/A

form revised 01/26/09
Inmate Telephone Service Agreement

SERVICE AGREEMENT BETWEEN the Harlingen Police Department of Harlingen, City, Texas AND A-USA Jail Services.

This A-USA Jail Services Inmate Telephone Service Subscriber Agreement ("Agreement") is made this ______ day of __________, 2018, by and between A-USA Jail Services ("Provider"), a Texas corporation, having its principal place of business at P.O. Box 542373 Dallas, Texas 75354, and the Client, the Harlingen Police Department of Harlingen, Texas ("Subscriber") having its principal place of business at:

Address: 1018 Fair Park Blvd.
City, State: Harlingen, Texas 78550
Contact: Chief of Police Jeffry A. Adickes C.P.M.
Phone: 956-216-5404
Email: jadickes@harlingenpolice.com

WITNESSETH

Whereas, the Subscriber is responsible for the inmates and for the operation of, and supervisory and protective care, custody and control of, all buildings, grounds, property and matters connected with the facility in which inmates are placed.

Whereas, the Provider is a qualified and willing participant with the Subscriber to provide inmate telephone and related communication services; in consideration of the mutual benefits to be derived hereby, the Subscriber and the Provider do hereby agree as follows:

1. TERM

(A) The term of this agreement will be for a five (5) year term. The agreement will automatic renew for the additional year at the end of the five year term unless the Subscriber notifies A-USA Jail Services of their intent not to renew for the additional year. Notice of non-renewal must be in writing ninety (90) days before of the end of the existing term.

P.O. BOX 542373 - DALLAS, TEXAS 75354 - (972) 369-6101 - www.ausajails.com
II. SCOPE OF SERVICE

(A). Inmate Telephone System

Provider shall provide, at no cost, a fully operational, local and long distance, secure and reliable Inmate Telephone System (ITS). The ITS shall be inclusive of all equipment, installation, infrastructure and network, training, operation, and ongoing repairs and maintenance of the entire system and its components which, at a minimum, shall meet the Subscriber’s requirements and be in compliance with any industry standard.

(B). Payment

The provider will forward monthly payment to subscriber on or about the 30th day starting after the initial traffic month to allow for a billing cycle to complete. Such payment shall be equal to thirty-five percent (35%) of gross revenues received originating from the facility not to include federal, state and local taxes, pre-paid account fees, billing statement fees, approved free calls and any other cost recovery mechanism(s).

(C). Rules and Regulations (General)

1. The Provider shall adhere to any and all municipal, state or federal requirements for ITS installation, certification, training or registration during the life of the agreement.

2. The Provider shall be responsible for compliance with all FCC regulatory requirements and any other requirements imposed by local, state and federal regulatory agencies for all ITS and related services provided throughout the duration of the agreement. Provider reserves the right to decrease commission payments in the event of decreased rates and fees mandated by any local, state or federal agency that adversely effects profitability.

3. The Provider shall be responsible for making all ITS modifications necessary to allow inmates to place calls in compliance with any industry dialing requirement change(s) at no cost to the Subscriber.

4. The Provider shall be responsible for complying with and updating the ITS for any regulatory changes and requirements during the life of the Agreement. These changes include federal, state or local municipal regulatory changes. These changes shall be made within a reasonable time frame at no cost to the Subscriber.

(D). Provider’s Responsibilities

1. Provide a comprehensive ITS that will allow for collect, prepaid collect and debit/calling card calls for local, Intralata/intrastate, interlata/intrastate, interstate, and international calls;

2. Provide an ITS which includes, but is not limited to, system infrastructure, network, database, servers, new call processors, digital and analog communications circuits, telecommunications capabilities, monitoring and recording functionality, and any additional required system functionality;

3. Installation of new inmate telephone equipment at all included Facilities and any required station cabling as determined necessary;

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4. Systems and equipment that support the Facility's call monitoring/security needs, including terminals and digital recording equipment as determined necessary;

5. Centralized database which shall contain all data elements necessary for provision of monitoring services, reporting and historical call transaction information;

6. Provider personnel to include field repair/site technicians to perform oversight, operational assistance and preventative maintenance/repair to the ITS system and equipment;

7. Ongoing maintenance, repair, and/or replacement and/or upgrades of all equipment and systems as determined necessary to ensure service delivery;

8. Provision of all required training and instructional materials required for use of the telephone services as applicable to inmates, families, and/or facility staff;

9. Provision of all related support services not otherwise indicated herein, and;

10. Commission payments based on gross revenue received of ALL calls and monthly revenue statements provided, upon request.

11.

(G). Installation (General)

All required materials, equipment, hardware, software and station cabling (where re-use is unavailable or new locations are required) for installation and maintenance of the ITS shall be provided by the Provider. Wherever possible, the Provider shall re-use existing station cabling installed at each Facility for the telephone instruments. In cases where existing station cabling cannot be used, the Provider shall install new station cabling (Category 3 minimum) at no cost. Any new cabling shall include wall plate, cross connection, patch cords, etc. as required. The Provider shall comply with all applicable electrical codes. The Provider shall comply with the security guidelines on institutional security policies. The Provider shall provide all coordination required with any local bandwidth provider and other carriers during installation and for the duration of the Agreement.

(H). System Functionality (General)

The Provider shall provide to Subscriber an ITS with a system fully supported by an infrastructure which has the capability to provide specified services such as secure and real-time monitoring of telephone calls. The ITS shall contain security features which prevent unauthorized individuals from accessing any information held by the Provider. Secure access to the system and the database shall be maintained at all times. The Provider shall provide complete support of all systems and software necessary to ensure provision of services at all times for the duration of the resulting Agreement. The system shall contain an automated announcement function capable of processing calls on a selective bi-lingual basis: English and Spanish.

(I). Telephone Equipment

Throughout the term of the Agreement, the Provider shall own all systems and equipment and shall conduct all maintenance, repairs, upgrades and replacement to systems and equipment at no cost.

(J). Equipment Service & Maintenance
The Provider shall provide equipment to support service delivery as specified herein at all designated Facilities that are fully functional in regards to all labor, materials, service hardware and/or software. The Provider shall further warrant that any equipment installed for the subscriber shall be free of defects, irregularities, code violations and shall operate as designed and proposed or negotiated. Time is of the essence in completing emergency and other service repairs or replacements. Thus, the Provider is required to meet all response times as required by the Facility to return the system to normal operating status. In the event of extraordinary obstacles to service delivery for which the Provider exceeds the time-to-service requirement, notification and a detailed plan of service shall be provided to the Facility.

III. General Policies

(A). Termination

Either party may terminate this Agreement for cause prior to expiration of the initial term if there is an alleged breach of the term(s) by the offending party. If a breach of this Agreement occurs by the Provider, the Subscriber may, by written notice, send a demand letter to cure breach within thirty (30) days. The cure period may be extended to a mutually agreeable date up to ninety (90) days, if the default cannot be reasonably cured within the specified time and if the defaulting party has begun to cure the default. Notice shall be delivered by certified mail (return receipt requested), by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery.

(B). Indemnification

The Provider shall be liable, and agrees to be liable for, and shall indemnify, defend and hold the Subscriber, its employees, agents, officers, heirs, and assigns harmless from any and all claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by the Provider, or its employees or agents, in the course of the operations of this Contract.

(C). Provider's Insurance

The Provider agrees to provide adequate insurance coverage on a comprehensive basis and to hold such insurance at all times during the existence of this agreement.

(D). Assignment

In the event that Provider transfers authority of the Facility covered by this agreement, prior written consent shall be required by the Subscriber prior to the assignment of this agreement.

(E). Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this Contract or interruption of performance resulting directly or indirectly from acts of God, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

(F). Severability

The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof and this Contract shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of this Contract can still be determined and effectuated.

(G). Governing Law

This Agreement is executed and entered into in the State of Texas, and shall be construed, performed and enforced in all respects in accordance with the laws, rules and regulations of the State of Texas.
(H). No Third-Party Beneficiaries

Except as otherwise expressly provided herein, neither this Agreement, nor any amendment, addendum or exhibit attached hereto, nor term, provision or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to any party not a signatory hereto.

(I). Exclusivity

During the term of this Agreement, the Subscriber agrees to grant the Provider exclusive rights to install and maintain Inmate Communications Services for all Facilities owned and future Facilities operated or governed by the Subscriber, inclusive of all inmate communications products and services.

(J). Immunity

Any provision of this agreement that seeks to waive the Subscriber's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgment of the provisions within this agreement.
### Attachment A

**RATES, FEES**

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<th>Call Type</th>
<th>Collect Per Minute Rate</th>
<th>Pre-Paid Collect Per Minute Rate</th>
<th>Debit/Debit Cards Per Minute Rate</th>
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<td>$0.31</td>
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### FCC Approved Fees

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<th>Allowed Fees</th>
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<tr>
<td>Pre-Paid Funding Fee (Automated):</td>
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<td>Pre-Paid Funding Fee (Live Representative):</td>
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<td>Pre-Paid Funding Fee via Cash, Money Order or Check:</td>
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<tr>
<td>Pre-Paid Funding Fee via Third Party (i.e. MoneyGram, Western Union, etc.):</td>
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<tr>
<td>All Other Fees:</td>
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## Client Services Provided

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<td>Inmate Phone and Visitation Recording</td>
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<td>Commissary by Phone / Kiosk</td>
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<td>Inmate PIN / I.D. System</td>
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<td>Interfacing with JMS and Commissary</td>
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<td>WEB online account set up.</td>
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<td>Inmate Reporting capabilities</td>
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<tr>
<td>In-Pod Kiosk / 3rd party App's</td>
<td>No</td>
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<td>Lobby Kiosk interfaced with commissary</td>
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<td>Complete System Installation, Training, Upgrades and Maintenance</td>
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<td>Advanced Investigation (Google maps, address location, alerts.)</td>
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<td>Briefcase investigative tool</td>
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<td>Live Multilingual Call Center</td>
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**Harlingen Police Department, Texas**

**A-USA Jail Services**

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<tr>
<td>Print Name</td>
<td>Rudy Pena</td>
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<tr>
<td>Title</td>
<td>Principal</td>
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<td>Date</td>
<td>Date</td>
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**AGENDA ITEM**
**EXECUTIVE SUMMARY**

**Meeting Date:** November 7, 2018

**Agenda Item:**
Consider and take action to authorize the Mayor, on behalf of the City of Harlingen, to accept grant funding in the amount of $17,800.00 made available through the Office of the Governor Homeland Security Grants Division under the 2018 State Homeland Security Program (SHSP).

**Prepared By (Print Name):** Jeffry A. Adickes
**Title:** Chief of Police

**Brief Summary:**
The Harlingen Police Department will be utilizing the 2018 State Homeland Security Grant Program funds to upgrade and improve Police Department’s Emergency Mobile Command Center and the Interoperable Communications (Mobile radios) for the HPD SWAT Team. No Matching Funds required.

**Funding (if applicable):**
Are funds specifically designated in the current budget for the full amount [ ] Yes [x] No*

*If no, specify source of funding and amount requested $17,800.00 will derive from reimbursement requests to the Office of the Governor Homeland Security Grants Division made available through the 2018 State Homeland Security Program. A budget amendment will be requested to reflect the increase in expenditures and revenues.

**Finance Director’s approval:** [ ] Yes [ ] No [ ] N/A

**Staff Recommendation:**
Staff recommends that we accept the grant funding allocated to the City of Harlingen Police Department.

**City Manager’s approval:** [ ] Yes [ ] No [ ] N/A

**Comments:**

**City Attorney’s approval:** [x] Yes [ ] No [ ] N/A

form revised 01/26/09
RESOLUTION NO. ___

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS AUTHORIZING THE ACCEPTANCE OF GRANT FUNDING (GRANT #3654001) THROUGH THE OFFICE OF THE GOVERNOR – HOMELAND SECURITY GRANTS DIVISION FOR THE ALLOCATION OF FUNDS MADE AVAILABLE THROUGH THE 2018 STATE HOMELAND SECURITY PROGRAM (SHSP) FOR LAW ENFORCEMENT TERRORISM PREVENTION ACTIVITIES (LETPA) TO FUND EQUIPMENT FOR PROFESSIONAL IMPROVEMENT THROUGH THE REPLACEMENT AND UPGRADING OF INTEROPERABLE RADIO COMMUNICATIONS AND BACK-UP POWER SYSTEM FOR THE EMERGENCY MOBILE COMMAND CENTER UTILIZED BY THE HPD SWAT TEAM FOR LOCAL, REGIONAL AND STATE RESPONSES TO ACTS OF TERRORISM AND OTHER LARGE SCALE EMERGENCY SITUATIONS.

WHEREAS, the City of Harlingen finds it in the best interest of the citizens of Harlingen, Texas to accept funding from the 2018 State Homeland Security Program (SHSP)(LETPA); available through the Office of the Governor Homeland Security Grants Division for the improvement and upgrading of the Police Department's Emergency Mobile Center and Interoperable Communications (Mobile radios) for the HPD SWAT Team and other technological necessities be accepted; and

WHEREAS, the governing body of the City of Harlingen has considered accepting the 2018 SHSP funding at a regular City Commission meeting for said project, in the amount of $17,800.00 from the Office of the Governor Homeland Security Grants Division – 2018 State Homeland Security Program (SHSP) (LETPA); and

WHEREAS, the City Commission of the City of Harlingen, Texas understanding the financial limitations and obligations related to such funding, including the full return of grant funds back to the Office of the Governor’s Homeland Security Grants Division in the event of a loss or misuse, endorses the application for funding on behalf of the Harlingen Police Department; and

WHEREAS, the City Commission of the City of Harlingen designates Mayor Chris Boswell as the authorized official to sign and accept for said grant funding.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARLINGEN, TEXAS: that the City Commission approves the acceptance of the grant funding for the upgrading of the Police Department’s Emergency Mobile Command Center and Interoperable Communications (Mobile radios) for the HPD SWAT Team in the amount of $17,800.00

CONSIDERED AND ADOPTED this 7th day of November, 2018 at a regular meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

CITY OF HARLINGEN:

Chris Boswell, Mayor

ATTEST:

Amanda Elizondo, City Secretary
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consideration and possible action authorizing the City to participate in the American Electric Power (AEP) rate adjustment case filed by AEP to recover losses due to repairs from damage caused by recent natural disasters, hiring legal consulting services to review the filing and direct any necessary litigation and appeals.

Prepared By (Print Name): Gabriel Gonzalez
Title: Assistant City Manager
Signature: Gabriel Gonzalez

Brief Summary:
AEP has filed an action with the PUC to request a significant rate adjustment to cover losses due to repairs from damage caused by recent natural disasters. This case is different from others in that there is no cost recovery provision for cities who decide to intervene. The estimated cost for the intervention is $45,000. The City of McAllen has taken the lead on this case and has hired the law firm of Lloyd Gosselink to intervene and represent the coalition of valley cities who will participate. Our portion of the legal expenses, based on a projection from the LRGVDC is approximately $3,176.47. Cities will not be reimbursed for this expense. If litigation takes longer than expected, the projected legal fees could rise. Staff recommends approval.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount
for this purpose? □ Yes □ No*
*If no, specify source of funding and amount requested:
N/A
Finance Director’s approval: □ Yes □ No □ N/A

Staff Recommendation:
For Street Closures ONLY, Fire Chief’s approval: □ Yes □ No □ N/A
City Manager’s approval: □ Yes □ No □ N/A
City Attorney’s approval: □ Yes □ No □ N/A
Comments:
MEMORANDUM

To: Valley AEP Cities

From: Ron Garza, Executive Director

Subject: AEP Rate Case

Date: October 11, 2018

Recently American Electric Power (AEP) has taken action to request a significant rate adjustment to cover losses due to repairs from damage caused by recent natural disasters.

The City of McAllen has taken the lead to advocate on behalf of citizens of the cities that receive electricity from AEP. This case is unusual because it is not a regular rate case, so there are no reimbursable provisions for it.

As you know, the Lower Rio Grande Valley Development Council (LRGVDC) in the past has coordinated a region-wide approach to reviewing proposed rate increases. This has resulted in cost savings to constituents throughout the Valley. We have also encouraged the cost sharing of expenses incurred to hire a rate consultant to provide recommendations as filings occur.

This is a $415,000,000 rate case. We propose an assessment of 5¢/person based on current TML population to cover the estimated $45,000 cost to intervene. The City of McAllen would not receive any of the funds associated with this case; only cost-share the amount of associated expenses. The City of McAllen has engaged the law firm of Lloyd Gosselink to intervene and represent the coalition in the case.

The purpose of this intervention is to protect to rate payers in the distribution of these funds.

I sincerely hope your local government will participate in the cost sharing of expenses for this most recent rate filing. I have also enclosed an invoice for your city’s pro rata contribution in support of this effort and table of distribution of all AEP cities. Rest assured that...
in conjunction with the City of McAllen, we will keep you apprised of the progress of the rate review, expenses, and funds received.

Make check payable to: **City of McAllen (AEP Rate Case)**

Send to:
City of McAllen,
Attn: Legal Department
P.O. Box 220
McAllen, TX 78505

Once the initial review of AEP's request is complete, your city will be provided with the expert's findings and a recommendation regarding final action to be taken as well as a model ordinance reflecting the recommendation and supporting documents. A hearing on this matter is currently scheduled for November 13-14, 2018.

Thank you for consideration of this effort and please do not hesitate to contact me or Mr. Kevin Pagan, McAllen City Attorney, should there be any questions.

Sincerely,

[Signature]

Ron Garza
Executive Director
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<th>CITY NAME</th>
<th>Population</th>
<th>Percentage of Total Population</th>
<th>Total Amount per City</th>
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<td>4%</td>
<td>$1,719.42</td>
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* NOT IN VGCC

|                | 1061793 | 100%  | 100   | 45,000.00 |

100%
TO: Mayor Chris Boswell  
City of Harlingen  
PO Box 2207  
Harlingen, Texas 78551

<table>
<thead>
<tr>
<th>Date</th>
<th>Charges</th>
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<tbody>
<tr>
<td>10/11/2018</td>
<td>AEP Rate Case</td>
<td>3176.47</td>
</tr>
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</table>

Total Due 3176.47

Please make check(s) payable to:  
City of McAllen, P.O. Box 220, McAllen, Texas 78505-0220

Invoice # 1010  
Date of Invoice: 10/11/2018
### AGENDA ITEM

#### EXECUTIVE SUMMARY

**Meeting Date:** November 7, 2018

**Agenda Item:** Consideration and possible action to approve a Resolution in support of the Pendleton Square Apartments being submitted by Pendleton Square, LP to the Texas Department of Housing and Community Affairs for 2019 Competitive 9% Housing Tax Credits for the proposed development of the Pendleton Square Apartments affordable rental housing.

**Prepared By (Print Name):** Dan Serna  
**Title:** City Manager  
**Signature:** [signature]

#### Brief Summary

Pendleton Square, LP intends to submit a application to the Texas Department of Housing and Community Affairs for 2019 competitive 9% housing tax credits to construct the Pendleton Square Apartments affordable rental housing units at the NEC of Doctors Memorial Drive and Medical Drive/Vermont Ave. in the City of Harlingen and are asking for a Resolution from the governing body in support of the project. Representatives from the project will be on hand at the City Commission meeting to answer any questions.

#### Funding (if applicable):

Are funds specifically designated in the current budget for the full amount

- [ ] Yes  
- [x] No*

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

N/A

**Finance Director’s approval:**

- [x] Yes  
- [ ] No  
- [ ] N/A

#### Staff Recommendation:

For Street Closures ONLY, Fire Chief’s approval:

- [x] Yes  
- [ ] No  
- [ ] N/A

**City Manager’s approval:**

- [x] Yes  
- [ ] No  
- [ ] N/A

**Comments:** [signature]

**City Attorney’s approval:**

- [ ] Yes  
- [ ] No  
- [ ] N/A
To: Dan Serna

From: Connie de la Garza, GRI

Subject: TDHCA Housing Tax Credits Resolution Date: October 26, 2018

Attached please find a request for a Housing Tax Credits Resolution to be replaced on the City Commission Agenda for the meeting of November 7, 2018. I represent the Developer JMZ Land Company, LLC. The Mayor is aware of this request and we look forward to a positive response.
October 25, 2018

City of Harlingen
Attn: Dan Serna, CPM, City Manager
118 E. Tyler Ave
Harlingen, TX 78550

RE: Resolution of Support – Pendleton Square, LP

Mr. Serna,

JMZ Land Company, LLC is resubmitting an application to the Texas Department and Community Affairs (TDHCA) for 2019 Competitive 9% Housing Tax Credits. As part of the application process, TDHCA requires a Resolution of support from the city. Please see the attached draft resolution.

We respectfully request the consideration of this resolution be added to the agenda for the November 7, 2018 Commission meeting.

I have also included additional information about the development.

Thank you,

Jeff Beckler
Assistant VP of Development

Enclosures
WHEREAS, Pendleton Square, LP has proposed a development for affordable rental housing at NEC of Doctors Memorial Drive and Medical Drive/Vermont Ave named Pendleton Square Apartments in the City of Harlingen, Cameron County, Texas; and

WHEREAS, Pendleton Square, LP has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2019 Competitive 9% Housing Tax Credits for Pendleton Square Apartments, and

WHEREAS, the City of Harlingen seeks to support the development of affordable housing within the city limits.

It is hereby:

RESOLVED, that the City of Harlingen, acting through its governing body, hereby confirms that it supports the proposed Pendleton Square Apartments to be located at NEC of Doctors Memorial Drive and Medical Drive/Vermont Ave and that this formal action has been taken to put on record the opinion expressed by the City on November_ 2018, and

FURTHER RESOLVED, that for and on behalf of the City of Harlingen authorizes the City Manager to prepare and sign a letter to the Texas Department of Housing and Community Affairs indicating that the City of Harlingen will provide a financial contribution in the form of reduced building permit fees in the amount of Five Hundred Dollars ($500.00) to Pendleton Square, LP if the Texas Department of Housing and Community Affairs award 9% Housing Tax Credits to Pendleton Square, LP.

PASSED AND APPROVED this day the 7th of November, 2018.

CITY OF HARLINGEN

ATTEST:

Chris Boswell, Mayor

Amanda C. Elizondo, City Secretary
DEVELOPMENT OVERVIEW
PENDLETON SQUARE

- 3 - Story apartments
- Mix of 2 and 3 bedroom units
- Tenant clubhouse with swimming pool
- Fitness center
- Community courtyard
- Playground/Tot Lot
- Picnic Area and BBQ Area
- Computer Center/Library
- Approximately 60 units (36 Two Bedrooms, 24 Three Bedrooms)

SIMILAR DESIGN RESULTS

Stone Canyon Apartments
Amarillo, Texas
Pendleton Square Apartments
60 Unit Family Community in Harlingen, TX
Pendleton Square Apartments
60 Unit Family Community in Harlingen, TX

Apartment Exterior Finishes
Total Cement Board
Cement Board Siding Area - (+/-80%)
Total Brick Area - (+/-20%)
Total Masonry Finish - (100%)
# Pendleton Square Apartments
A 60-Unit Family Community in Harlingen, Texas
Approximate Land Area: 3.45 Acres (~17.6 Units per Acre)

## Building #1

<table>
<thead>
<tr>
<th>Unit Mark</th>
<th>Description</th>
<th>1st Floor Level</th>
<th>2nd Floor Level</th>
<th>3rd Floor Level</th>
<th>Total By Level</th>
<th><strong>Net(1) SF/Unit</strong></th>
<th><strong>Net(2) SF/Unit</strong></th>
<th><strong>Total Bldg Net(1) SF</strong></th>
<th><strong>Bldg Net(2) SF</strong></th>
<th><strong>Patio or Balcony</strong></th>
<th><strong>Storage</strong></th>
<th>*<strong>Gross Unit SF/Unit</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>B2</td>
<td>Two BRm/Two Bath</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>12</td>
<td>941</td>
<td>990</td>
<td>11,292</td>
<td>11,860</td>
<td>92</td>
<td>22</td>
<td>1,104</td>
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<td>Two BRm/Two Bath</td>
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<td>0</td>
<td>0</td>
<td>0</td>
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<td>990</td>
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<tr>
<td>C2</td>
<td>Three BRm/Two Bath</td>
<td>3</td>
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<td>12,265</td>
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<td>92</td>
<td>22</td>
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<tr>
<td>C2HC</td>
<td>Three BRm/Two Bath</td>
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<td>0</td>
<td>1</td>
<td>1,115</td>
<td>1,170</td>
<td>0</td>
<td>0</td>
<td>92</td>
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</tr>
<tr>
<td><strong>Subtotal:</strong></td>
<td></td>
<td>6</td>
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<td>24,672</td>
<td>25,520</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| ***Total Bldg Gross SF:** | 9,552 | 9,552 | 9,552 | 28,656 |
| **Breezeway Area Gross SF:** | 1,058 | 756 | 278 | 2,192 |
| ***Total Gross SF by Level:** | 10,610 | 10,308 | 9,930 | 30,848 |

## Building #2

<table>
<thead>
<tr>
<th>Unit Mark</th>
<th>Description</th>
<th>1st Floor Level</th>
<th>2nd Floor Level</th>
<th>3rd Floor Level</th>
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<td>1,104</td>
</tr>
<tr>
<td>B2HC</td>
<td>Two BRm/Two Bath</td>
<td>1</td>
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<td>0</td>
<td>1</td>
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<td><strong>Subtotal:</strong></td>
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<td>11,292</td>
<td>11,860</td>
<td>92</td>
<td>22</td>
<td>1,284</td>
</tr>
</tbody>
</table>

| ***Total Bldg Gross SF:** | 4,416 | 4,416 | 4,416 | 13,248 |
| **Breezeway Area Gross SF:** | 518 | 375 | 189 | 1,086 |
| ***Total Gross SF by Level:** | 4,946 | 4,794 | 4,605 | 14,344 |

## Building #3

<table>
<thead>
<tr>
<th>Unit Mark</th>
<th>Description</th>
<th>1st Floor Level</th>
<th>2nd Floor Level</th>
<th>3rd Floor Level</th>
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</tr>
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<td>1</td>
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<td>25,520</td>
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| **Breezeway Area Gross SF:** | 1,058 | 756 | 278 | 2,192 |
| ***Total Gross SF by Level:** | 10,610 | 10,308 | 9,930 | 30,848 |

* Net (1) SF/Unit is calculated as conditioned area and does not include wall framing (paint-to-paint)
* Net (2) SF/Unit is calculated as conditioned area and includes wall framing
* Gross Unit SF/Unit is calculated as all area under roof, conditioned and non-conditioned

## Clubhouse

<table>
<thead>
<tr>
<th><strong>Tenant Use</strong></th>
<th><strong>Area</strong></th>
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<tbody>
<tr>
<td>Community Room</td>
<td>374 S.F.</td>
</tr>
<tr>
<td>Fitness Center</td>
<td>328 S.F.</td>
</tr>
<tr>
<td>Computer/Library/Business Center</td>
<td>219 S.F.</td>
</tr>
<tr>
<td>Kitchenette</td>
<td>109 S.F.</td>
</tr>
<tr>
<td>Management Leasing Office</td>
<td>240 S.F.</td>
</tr>
<tr>
<td>Office</td>
<td>212 S.F.</td>
</tr>
<tr>
<td>Employee Hall &amp; Bathrooms</td>
<td>433 S.F.</td>
</tr>
<tr>
<td><strong>Employee Janitor's Mech. Storage Closets and etc.</strong></td>
<td>134 S.F.</td>
</tr>
<tr>
<td><strong>Total Net Area (Conditioned)</strong></td>
<td>2,558 S.F.</td>
</tr>
<tr>
<td><strong>Tenant Front Entry Closet</strong></td>
<td>54 S.F.</td>
</tr>
<tr>
<td><strong>Tenant Back Covered Porch Sitting Area</strong></td>
<td>298 S.F.</td>
</tr>
<tr>
<td><strong>Mail Center</strong></td>
<td>82 S.F.</td>
</tr>
<tr>
<td><strong>Employee MEP Closet</strong></td>
<td>32 S.F.</td>
</tr>
<tr>
<td><strong>Total Exterior Area (Non-Conditioned)</strong></td>
<td>466 S.F.</td>
</tr>
</tbody>
</table>

**Total Gross Area** | 2,515 S.F. |

* Net (1) SF/Unit is calculated as conditioned area and does not include wall framing (paint-to-paint)
* Net (2) SF/Unit is calculated as conditioned area and includes wall framing
* Gross Unit SF/Unit is calculated as all area under roof, conditioned and non-conditioned
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
CONSIDER AND TAKE ACTION to adopt an ordinance to designate a “No Parking Zone” along 25th Street 104 feet from the intersection of Haine Drive extending north 700 feet on the west side and 74 feet from the intersection of Haine Drive extending north 390 feet on the east side of 25th Street.

Prepared By (Print Name): Celina Gonzales
Title: Public Works Director
Signature:  

Brief Summary:
The new striping along 25th Street between Haine Drive and Treasure Hills Boulevard has been converted from a two-lane to a four-lane roadway. The creation of the new lane has eliminated parking along this route and it has been determined for the need to place “No Parking Zones” on 25th Street, as outlined in your packet.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount X Yes No* for this purpose?
*If no, specify source of funding and amount requested:
Finance Director’s approval:  

Staff Recommendation:
Staff recommends approval of the “No Parking Zone” along 25th Street, as outlined in your packet.

City Manager’s approval:  

Comments:  

City Attorney’s approval:  

Form revised 01/26/09
ORDINANCE NO. 18-____

AN ORDINANCE TO ESTABLISH A "NO PARKING ZONE" ALONG 25th STREET 104 FEET FROM THE INTERSECTION OF HAINE DRIVE EXTENDING NORTH 700 FEET ON THE WEST SIDE AND 74 FEET FROM THE INTERSECTION OF HAINE DRIVE EXTENDING 390 FEET ON THE EAST SIDE OF 25th STREET; AUTHORIZING THE TOWING OF VEHICLES PARKED IN SAID "NO PARKING ZONE"; ESTABLISHING A PENALTY NOT TO EXCEED $200.00 FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

BE IT ORDAINED BY THE CITY OF HARLINGEN:

SECTION I: That a "No Parking Zone" be established on along 25th Street 104 feet from the intersection of Haine Drive extending north 700 feet on the west side and 74 feet from the intersection of Haine Drive extending 390 feet on the east side of 25th Street.

SECTION II: The Chief of Police of the City of Harlingen, Texas is hereby authorized and directed to place the traffic control devices authorized by this ordinance.

SECTION III: It shall be unlawful for any person to stop or park a vehicle in the "No Parking Zone" designated by this ordinance.

SECTION IV: That the Police Department of the City of Harlingen is authorized to cause vehicles parked in violation of this ordinance to be towed at the expense of the owners or operators of such vehicles.

SECTION V: That a person who stops or parks a vehicle in the "No Parking Zone" established by this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed $200.00.

SECTION VI: That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true and correct copy of the caption of this Ordinance to be published in a newspaper having general circulation in the City of Harlingen, Cameron County, Texas.

FINALLY ENACTED THIS ___ day of ___, 2018 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE CHAPTER 551.

CITY OF HARLINGEN

ATTEST:__________________________________________

Chris Boswell, Mayor

__________________________________________________

Amanda C. Elizondo, City Secretary
Proposed No Parking Zones on 25th Street

Existing

Proposed

NO PARKING

Existing

Proposed

NO PARKING

Existing

Proposed

NO PARKING

Proposed

NO PARKING

TREASURE HILLS BLVD

26TH ST

2280 ST STREET

HAINE DR

N.T.S.

10/26/2018
AGENDA ITEM  
EXECUTIVE SUMMARY

Meeting Date:  November 7, 2018

**Agenda Item:**
Consideration and possible action to rescind the action taken by the City Commission on October 16, 2018 authorizing the City Manager to enter into a lease purchase agreement with Yamaha for 65 golf carts.

**Prepared By (Print Name):** Javier Mendez,  
**Title:** Parks & Recreation Director  
**Signature:**

**Brief Summary:**
On October 16, 2018, the City Commission based on the recommendation from staff authorized the City Manager to enter into a lease purchase agreement with Yamaha Car Sales Company for 65 gas power golf cars for use at the Tony Butler Golf Course. Staff's recommendation erroneously failed to take into account a lower cost proposal submitted by Club Car dated September 1, 2018. Both vendors submitted quotes based on cooperative purchasing agreements. BuyBoard purchasing agreements have undergone a competitive bid process that ensures that the city is in compliance with applicable state and local procurement rules & regulations. Due to the fact that not all pertinent information was presented to the City Commission at the time action was taken on this matter, Staff is recommending the authorization for the City Manager to enter into a lease purchase agreement with Yamaha Car Sales Company be rescinded so that both proposals may be fairly considered.

**Funding (if applicable):**
Are funds specifically designated in the current budget for the full amount [ ] Yes [ ] No*  
*If no, specify source of funding and amount requested:

**Finance Director’s approval:** [ ] Yes [ ] No [ ] N/A

**Staff Recommendation:**
Staff recommends rescinding action taken by the City Commission on October 16, 2018 which authorized the City Manager to enter into a lease purchase agreement with Yamaha Car Sales Company for 65 golf cars so that both proposals may be fairly considered.

**City Manager’s approval:** [ ] Yes [ ] No [ ] N/A

**Comments:**

**City Attorney’s approval:** [ ] Yes [ ] No [ ] N/A

Form revised 01/26/09
Yamaha Golf Car Proposal
Prepared for:

TONY BUTLER
GOLF COURSE

Presented By
Yamaha Sales Representative

John T Carney
District Sales Manager
Southern Texas
October 7, 2018
2019 Yamaha “QuieTech” Golf Car

A gas car that is ALMOST AS QUIET as an ELECTRIC car. The 2019 Yamaha “QUIETech” Gas Golf Car boasts the lowest decibel output of any gas car and features the industry’s first-ever Independent Rear Suspension on a golf car. The unprecedented combination ensures your players experience a luxuriously quiet ride. At 45 MPG and less hydrocarbon emissions than the competition, choosing QuieTech EFI is the most sound business decision you will make for your golf course.

**Standard “Gas Car” Features**

- 5.8 Gallon Fuel Tank
- Automotive Style Dash with 4 Drink Holders
- 5 MPH Crash Rated – Matching Bumpers
- Fully Independent Front & Rear Suspension
- Maintenance-Free Rack and Pinion Steering
- Perma-Lubed Sealed Ball Bearings
- Coil Springs Over Hydraulic Shock Absorbers
- Clima-Guard Top with Dual Rain Gutters
- Sentry Wraparound Protection
- Largest Most Comfortable Seat in the Industry
- Largest Vinyl-Coated Sweater Basket
- Thermoplastic Olefin Body
- Rear Drum Brakes
- Fuel Economy up to 31 miles per gallon

**Additional “EFI QuieTech” Features**

- Fully Independent Rear Suspension
- No Choke Cable
- 76% less pollutants than competitors
- Improved Fuel Economy up to 45 miles per gallon
- Improved Cold Weather Starting
- Improved Acceleration

**Accessories Included Per Car**

- Information Holders
- Clear Split Windshield
- On Board Tow System
- Dual Sand Bottles
- Fleet Numbers (2 per car)
- Wheel Covers
- USB Ports (2 per car)
- Club / Ball Washer
Standard Color Choices

Glacier White

Sunstone Beige

** All cars come with standard contoured stone color seats and tops **

Upgraded Color Choices

** SOLID COLORS **

** Emerald Green

** Garnet Red

** METALLIC COLORS **

** Moonstone Silver

** Sandstone Gold

** Carbon Grey

** Rich Brown

** Bluestone Blue

** Upgraded Colors add $3.00 per car / per month **
**Payment Options for 65 Yamaha Gas Cars**

*Trade in 75 - 2014 Club Car Precedent Cars*

Tony Butler Golf Course currently owns their fleet of 75 Club Car Electric Precedent Golf Cars. Yamaha Golf Car Company is willing to purchase these cars from Tony Butler Golf Course for the following amounts:

- **2014 Cars** ~ $1,400.00 per car or a total value = $35,000.00
- **2015 Cars** ~ $1,600.00 per car or a total value = $40,000.00
- **2016 Cars** ~ $1,900.00 per car or a total value = $47,500.00
- **Total Trade In Amount** = $122,500.00
- **Club Car Buy-Out Amount on 2016 Fleet of 25 Cars ($1600 per car)** =
- **Total Amount After Buy-Out** = $82,500.00

Yamaha Golf Car would write a check to Tony Butler Golf Course for the $40,000.00 to pay-off the balloon payment. Yamaha Golf Car would then take the remaining total trade value of $82,500.00 and use it towards lowering the total monthly lease cost of a new fleet of 65 – 2018 Yamaha Golf Cars. Prices per car listed above have the trade value included.

All 75 – Club Car Electric Precedent Golf Cars must be in proper golf course condition with working chargers for each car. Proper Golf Course condition means normal wear and tear (minor scratches – no major damage) and cars must run a minimum amount of time. If any car(s) are turned into Yamaha Golf Car Company with more damage than agreed upon, Yamaha Golf Car has the authority to invoice Tony Butler Golf Course for the cost to repair the car(s) or a revision to the total monthly payment must be revised.

**Conditional Sale with Balloon Payment at End of Term**

<table>
<thead>
<tr>
<th># of Cars</th>
<th>2019 Yamaha QuieTech 48 Month Lease</th>
<th>60 Month Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>Per Car / Per Month Payment $42.50</td>
<td>$39.25</td>
</tr>
<tr>
<td></td>
<td>Total Monthly Payment $2,762.50</td>
<td>$2,551.25</td>
</tr>
<tr>
<td></td>
<td>Total Yearly Payment $33,150.00</td>
<td>$30,615.00</td>
</tr>
</tbody>
</table>

**Balloon Payment**

- 48 Month = $2,450.00 per car
- 60 Month = $2,250.00 per car

**Conditional Sale with $1.00 Buy-Out at End of Term**

<table>
<thead>
<tr>
<th># of Cars</th>
<th>2019 Yamaha QuieTech 48 Month Lease</th>
<th>60 Month Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>Per Car / Per Month Payment $84.69</td>
<td>$69.80</td>
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<tr>
<td></td>
<td>Total Monthly Payment $5,504.85</td>
<td>$4,537.00</td>
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<tr>
<td></td>
<td>Total Yearly Payment $66,058.20</td>
<td>$54,444.00</td>
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**Balloon Payment**

$1.00 buy-out per car
On each of the quotes listed
At the end of each term limit

*The above pricing is in conjunction with Buy Board: Vendor #3095, Contract # 529-17*
Payment Options for 50 Yamaha Gas Cars
Trade in 75 – 2014 Club Car Precedent Cars

Tony Butler Golf Course currently owns their fleet of 75 Club Car Electric Precedent Golf Cars. Yamaha Golf Car Company is willing to purchase these cars from Tony Butler Golf Course for the following amounts:

- 2014 Cars $1,400.00 per car or a total value = $35,000.00
- 2015 Cars $1,600.00 per car or a total value = $40,000.00
- 2016 Cars $1,900.00 per car or a total value = $47,500.00
- Total Trade In Amount = $122,500.00
- Club Car Buy-Out Amount on 2016 Fleet of 25 Cars ($1600 per car) = $82,500.00
- Total Amount After Buy-Out = $82,500.00

Yamaha Golf Car would write a check to Tony Butler Golf Course for the $40,000.00 to pay-off the balloon payment. Yamaha Golf Car would then take the remaining total trade value of $82,500.00 and use it towards lowering the total monthly lease cost of a new fleet of 65 – 2018 Yamaha Golf Cars. Prices per car listed above have the trade value included.

All 75 – Club Car Electric Precedent Golf Cars must be in proper golf course condition with working chargers for each car. Proper Golf Course condition means normal wear and tear (minor scratches – no major damage) and cars must run a minimum amount of time. If any car(s) are turned into Yamaha Golf Car Company with more damage than agreed upon, Yamaha Golf Car has the authority to invoice Tony Butler Golf Course for the cost to repair the car(s) or a revision to the total monthly payment must be revised.

Conditional Sale with $1.00 Buy-Out at End of Term

<table>
<thead>
<tr>
<th># of Cars</th>
<th>2019 Yamaha QuieTech</th>
<th>60 Month Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Per Car / Per Month Payment</td>
<td>$62.62</td>
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<td>Total Yearly Payment</td>
<td>$37,572.00</td>
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Balloon Payment
$1.00 buy-out per car
On each of the quotes listed
At the end of each term limit

The above pricing is in conjunction with Buy Board:
Vendor #3095, Contract # 529-17
Payment Options for 65 Yamaha Gas Cars
Trade in 75 - 2014 Club Car Precedent Cars

Tony Butler Golf Course currently owns their fleet of 75 Club Car Electric Precedent Golf Cars. Yamaha Golf Car Company is willing to purchase these cars from Tony Butler Golf Course for the following amounts:

- **2014 Cars** ~ $1,400.00 per car or a total value = $35,000.00
- **2015 Cars** ~ $1,600.00 per car or a total value = $40,000.00
- **2016 Cars** ~ $1,900.00 per car or a total value = $47,500.00
- **Total Trade In Amount** = $122,500.00
- **Club Car Buy-Out Amount on 2016 Fleet of 25 Cars ($1600 per car)** = $82,500.00

Total Amount After Buy-Out = $240,257.50

Yamaha Golf Car would write a check to Tony Butler Golf Course for the $40,000.00 to pay-off the balloon payment. Yamaha Golf Car would then take the remaining total trade value of $82,500.00 and use it towards lowering the total monthly lease cost of a new fleet of 65 - 2018 Yamaha Golf Cars. Prices per car listed above have the trade value included.

All 75 - Club Car Electric Precedent Golf Cars must be in proper golf course condition with working chargers for each car. Proper Golf Course condition means normal wear and tear (minor scratches – no major damage) and cars must run a minimum amount of time. If any car(s) are turned into Yamaha Golf Car Company with more damage than agreed upon, Yamaha Golf Car has the authority to invoice Tony Butler Golf Course for the cost to repair the car(s) or a revision to the total monthly payment must be revised.

Purchase Pricing

<table>
<thead>
<tr>
<th>Vehicle</th>
<th># of Cars</th>
<th>Price per Car</th>
<th>Total Purchase Price</th>
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<tr>
<td>2019 Yamaha QuieTech Fleet Cars</td>
<td>65</td>
<td>$4,965.50</td>
<td>$322,757.50</td>
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<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$240,257.50</strong></td>
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</table>

The above pricing is in conjunction with Buy Board:
Vendor #3095, Contract # 529-17
Yamaha Fleet Car Warranty

Yamaha Golf-Car Company hereby warrants that any new Yamaha DRIVE\(^2\) Gas or DRIVE\(^3\) Electric golf car purchased from Yamaha, or an Authorized Dealer or Distributor in the United States will be free from defects in material and workmanship for FOUR years from date of purchase, subject to the stated limitations. DURING THE PERIOD OF WARRANTY, any authorized Yamaha golf car service technician, dealer, or distributor will, free of charge, repair or replace, at Yamaha’s option, any part adjudged defective by Yamaha due to faulty workmanship or material from the factory. Parts used in warranty repairs will be warranted for the balance of the vehicle’s warranty period. All parts replaced under warranty become property of Yamaha Golf-Car Company.

### Common Parts

<table>
<thead>
<tr>
<th>Part</th>
<th>Warranty Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frame</td>
<td>Limited Lifetime to Original Owner</td>
</tr>
<tr>
<td>Transaxle</td>
<td>4 Years</td>
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<tr>
<td>Pedals</td>
<td>3 Years</td>
</tr>
<tr>
<td>Brakes (excluding shoes / pads)</td>
<td>4 Years</td>
</tr>
<tr>
<td>Electrical wires, switches, and relays</td>
<td>3 Years</td>
</tr>
<tr>
<td>Suspension / Steering components</td>
<td>4 Years</td>
</tr>
<tr>
<td>Seats</td>
<td>2 Years</td>
</tr>
<tr>
<td>Sun Top</td>
<td>4 Years</td>
</tr>
<tr>
<td>Bumpers / Body Parts</td>
<td>3 Years</td>
</tr>
<tr>
<td>Floor Mats</td>
<td>2 Years</td>
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<tr>
<td>Scorecard Holders</td>
<td>2 Years</td>
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<tr>
<td>Bag Carrier</td>
<td>3 Years</td>
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### Electric Car (DC or AC motor) Specific

<table>
<thead>
<tr>
<th>Part</th>
<th>Warranty Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Battery - Trojan 'T875' with HydroLink Watering System</td>
<td>4 Years or 25,000 amp-hours whichever comes first</td>
</tr>
<tr>
<td>Electric Motor</td>
<td>4 Years</td>
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<tr>
<td>Motor Controller / Charger</td>
<td>4 Years</td>
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<tr>
<td>Charger Cord</td>
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<td>Charger Receptacle</td>
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<tr>
<td>Throttle Position Sensor</td>
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<td>GAS Car (QuieTech and Carb) specific</td>
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<tr>
<td>Exhaust / Intake / Generator</td>
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<tr>
<td>Gas Engine</td>
<td>4 Years</td>
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<tr>
<td>Throttle Cables / Controls</td>
<td>3 Years</td>
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<tr>
<td>Battery</td>
<td>1 Year</td>
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<tr>
<td>Clutch (excluding drive belt)</td>
<td>4 Years</td>
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</table>

### EXCLUSIONS from this Warranty shall include any failures caused by:

- Abnormal strain, neglect, or abuse, including lack of proper maintenance, and use contrary to the Owner’s/Operator’s Manual instructions.
- Accident or collision damage.
- Installation of parts or accessories that are not original equipment.
- Fading, rust, or deterioration due to exposure or ordinary wear and tear.
- Modifications or alterations that affect the car’s condition, operation, performance, or durability, or which makes the car serve a purpose other than use as a two-person, golf course vehicle.
- Damage due to improper transportation.
- Acts of God, i.e. lightning, hail damage, flooding, fire, etc.

This Limited Warranty does not cover any parts replaced due to normal wear or routine maintenance, including oil and air filter elements, brake shoes, tire wear, spark plugs, starter and clutch drive belts. Any charges incurred in transporting a golf car or charger to and from an authorized Yamaha golf car dealer for service or in performing field service are also excluded from this warranty. Gasoline powered golf car starting batteries on vehicles equipped with a golf course GPS device, or any other device with a parasitic current draw, unless the vehicle is equipped from the factory with an optional deep cycle starting battery, are also excluded from this warranty.

**THE CUSTOMER’S RESPONSIBILITY** under this warranty shall be to operate and maintain the golf car and charger as specified in the appropriate Owner’s/Operator’s Manual, and give notice to an authorized Yamaha golf car dealer of any and all apparent defects within ten (10) days after discovery, and make the vehicle or charger available at that time for inspection and repairs by the dealer’s authorized representative.

**I HAVE READ AND AGREE TO THE ABOVE CONDITIONS SET FORTH IN THIS WARRANTY:**

Initial
Additional Information

Fleet Service: Yamaha Golf Car Company’s Fleet Service Technician, Romondo Wilkins will complete all warranty service on your new fleet of Yamaha Golf Cars. I’m sure you will enjoy the benefits of having Romondo service your current fleet of cars along with his professionalism during course visits. Romondo can be reached on his cell phone at 404-558-6530.

Fleet Maintenance: In consideration of our mutual goal for outstanding fleet performance, Tony Butler Golf Course agrees to the following:
- To keep cars clean, rotate usage and repair flats
- Maintain batteries: proper water levels, terminals clean & free of corrosion
- Have proper cars available for service technicians on scheduled visits
- Provide technician a list of cars requiring unscheduled maintenance
- Report any damage due to vandalism within 24 hours

Pricing Quoted: The quotations do not include any applicable taxes or insurance and is subject to the final approval of Yamaha Golf Car Company. This quotation is good for 30 days. This agreement constitutes the entire agreement between the parties specified above and supersedes any previous agreements between the parties whether oral or in writing. Neither party has made any additional representations or understandings to the other party except as set forth in this agreement.

Fleet Set Up: Yamaha Golf Car Company will provide all labor for new car setup which will include tops and all accessories for all fleet cars.

Insurance: It is the responsibility of Tony Butler Golf Course to provide the proper insurance for the new fleet of Yamaha Golf Cars.

The above quotation is subject to credit and management approval of Yamaha and is valid for 30 days. If the proposal is acceptable under the above terms, please sign, date and return to
Yamaha District Sales Manager
JF Carney by email or fax listed below:
Email: jt_carney@yamaha-motor.com
Fax #: (678) 601-1579

Accepted By: ___________________________ Date: ______________
Tony Butler Golf Course - Signature

Accepted By: ___________________________ Date: ______________
Tony Butler Golf Course - Print

Accepted By: John T. Carney Date: 10/7/18
Yamaha District Sales Manager

Accepted By: David Stewart
Yamaha Regional Manager

Date: 10/7/18
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consideration and possible action to approve a lease purchase or purchase agreement with Club Car for 65 golf carts to be used at the Tony Butler Golf Course and authorize the City Manager to sign the agreement.

Prepared By (Print Name): Javier Mendez,
Title: Parks & Recreation Director

Brief Summary:
The Tony Butler Golf Course currently has a fleet of seventy-five (75) electric golf carts. The fleet consists of three sets of twenty-five (25) units each with model years of 2014, 2015, and 2016. These carts are rented to consumers of the golf course. The set of 2016 golf carts are currently under a lease agreement that is set to expire on December 31, 2018 and will require a $40,000 balloon payment.

Two quotes were received. Club Car Sales Company has submitted a quote via U.S. Communities (Contract No. EV2024-02) for the lease purchase of sixty five (65) 2019 Club Car “Tempo” gas Golf Cars for five (5) annual payments of $48,287.04. Club Car’s proposal includes the payoff of the balloon payment of $40,000.00 and a net trade-in value of $126,250 for the existing 75 golf cart fleet. The current purchase price is $211,389.55. Yamaha Golf Carts submitted a proposal via the Buy Board for a lease purchase agreement of sixty-five (65) gas Quiet Tech golf carts at an annual cost of $54,444 for 5 years. Yamaha’s current purchase price is $240,257.50.

As an alternative, subject to a budget amendment transfer from the General Fund, a purchase agreement in lieu of a lease purchase agreement could be pursued. This would result in a savings of $30,045.65 over the term of the lease.

Staff has reviewed the applicability and reliability of gas powered golf carts in a golf course and has determined that the fleet can be reduced from 75 units to 65. Gas powered golf carts are quiet and require less downtime for preparation to be placed back in circulation for rental availability. In comparison to electric powered golf carts, as an electric unit ages the downtime required to charge the batteries increases.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount for this purpose?  □ Yes  □ No*

*If no, specify source of funding and amount requested:  
$29,601.87 Depreciation Fund; $181,787.68 General Fund Budget Amendment Transfer

Finance Director’s approval: □ Yes    □ No    □ N/A

Staff Recommendation:
Staff recommends approval to enter into a purchase agreement with Club Car for 65 golf carts subject to a budget amendment transfer from the General Fund and authorize the City Manager to sign the agreement. Approval authorizes existing 75 golf cart units to be traded-in.

City Manager’s approval: □ Yes    □ No    □ N/A

Comments:

City Attorney’s approval: □ Yes    □ No    □ N/A
# Customer Quote

**Bill To:**
Ingersoll Rand Financial Services  
IRFS SEE ALBERT BEVERIDGE 4125 WASHINGTON RD  
EVANS, GA 30809  
USA

**Ship To:**
TONY BUTLER MUNICIPAL GOLF COURSE  
TONY BUTLER MUNICIPAL GOLF COURSE 2640 S M ST  
HARLINGEN, TX 78552-7558  
USA

**Req Ship Date:** 11/20/2018  
**Quote #:** 1-VDM3PJ  
**Quote Effective From:** 10/30/2018  
**Quote Effective Through:** 11/30/2018  
**Payment Terms:** Net 30

**Sales Contact:** RANDY JONES  
**Sales Contact Email:** randyd.jones@irco.com  
**PO:**  
**Currency:** USD  
**F.O.B. Terms:** FOB Augusta GA

**Comments:** City of Kansas City/U.S. Communities Contract #EV2024-02

<table>
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<th>Part Number</th>
<th>Ext Qty</th>
<th>List Price</th>
<th>Net Price</th>
<th>Extended Price</th>
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See Page 2 for Signature Line
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<th>Price</th>
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Subtotal: $211,389.55
Sales Tax: $0.00
Grand Total: $211,389.55

©2016 Club Car, LLC. Club Car believes the information and specifications in this quote were correct at the time of printing. Specifications, standard features, options, fabrics and colors are subject to change without notice. Some features may be unavailable when your vehicle is built. Some vehicles are pictured with options that may be available at extra cost or may not be available on some models. Ask your dealer about the availability of options and verify that the vehicle you ordered includes the equipment you ordered. There are no warranties, expressed or implied, contained herein. See the Limited Warranty in the owner's manual or write to: Club Car, PO Box 204658, Augusta, GA 30917. The company reserves the right to make design changes without obligation to make these changes on previously sold units or systems. These vehicles are designed and manufactured for off-road use only. They do not conform to Federal Motor Vehicle Safety Standards for automobiles or to FMVSS 500 for low-speed vehicles, and are not equipped for operation on public streets, roads or highways.

This quote for products, equipment, and parts is subject to Club Car's Terms and Conditions of Equipment Sale, as revised or amended from time to time (the "Terms"). The Terms, which are incorporated into this quote by reference, are located at Terms and Conditions, and Customer hereby acknowledges receipt, review, and acceptance of the Terms. At Customer's written request, Club Car will mail Customer a copy of the Terms. Club Car hereby gives notice of its objection to any additional or different terms included in any purchase order or other form submitted by Customer.

Accepted By: __________________________________________
Company: _____________________________________________
Title: ________________________________________________
Date: ________________________________________________
GAME FOR MORE... possibilities.

Our love of golf runs deep.
October 30th, 2018

Mr. Eddie Medlin
Tony Butler Golf Club
Harlingen, Texas

Dear Eddie,

On behalf of Club Car, thank you for the opportunity to present this proposal for new golf cars at Tony Butler Golf Club. We look forward to discussing this proposal to ensure that it addresses the needs of the club and provides the solution your facility is seeking.

This year, we are excited to introduce our Tempo Connect golf car equipped with Visage Fleet Management and Shark Experience, a new in-car entertainment system developed exclusively with the Greg Norman Company and Verizon. With car and course controls for you and your staff, plus touchscreen entertainment for golfers, it's taking golf into a new era.

Club Car takes pride in not only our products, but also our commitment to customer service and satisfaction. It is this combination of uncompromising quality, reliability and service that has made Club Car one of the most respected companies in the golf industry for more than 50 years and a valued partner with thousands of facilities around the world.

If you have questions about any aspect of this proposal or if you would like to discuss additional ways we might meet your needs, please call me at (682)308-9509 or send an e-mail to randyd.jones@irco.com

I look forward to serving you.

Respectfully,

Randy Jones, PGA
Territory Manager – Club Car, LLC
PROPOSAL

Ingersoll Rand and Industry Partners

Ingersoll Rand (NYSE:IR) advances the quality of life by creating comfortable, sustainable and efficient environments.

Our people and our family of brands—including Club Car®, Ingersoll Rand®, Thermo King® and Trane®—work together to enhance the quality and comfort of air in homes and buildings, transport and protect food and perishables; and increase industrial productivity and efficiency.

We are a $13 billion global business committed to a world of sustainable progress and enduring results.

Golf Partnerships

*Club Car honors the game in its service to customers and support of the golf industry*

---

Official Golf Car of The PGA of America
BEHIND EVERY CAR IS A BIGGER PICTURE

In 2018, Club Car is pleased to present new opportunities to create stronger relationships with your golfers and more efficiently manage your course.

With automotive styling, proven engineering and industry-leading durability, the brand-new Tempo™ and Tempo 4Fun golf cars are designed to elevate the ride—and separate your course from the competition. We're also proud to introduce Visage with Shark Experience, a new in-car entertainment system poised to move the game forward and help you grow your business.
NEW FOR 2018: TEMPO AND TEMPO 4 FUN

Built with proven engineering, industry-leading durability, and reliable comfort, the new Tempo™ and Tempo™ 4-Fun vehicles showcase the best that Club Car has to offer.

When equipped with web-based connected technology designed to entertain golfers and support course management, a Tempo fleet offers a key competitive edge—and gives you the flexibility to monitor your operation from anywhere.
<table>
<thead>
<tr>
<th>Qty</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td><strong>2019 Club Car EFI Gas Golf Cars including:</strong></td>
</tr>
</tbody>
</table>

- Canopy top
- Radial tires and Precedent silver wheel covers
- Domed # decals (both sides of car)
- Hinged Fold down windshield
- Choice of standard body and canopy colors

**Additional Accessories Included:**
- Custom Tony Butler Golf Club logo
- Deluxe Information Holder
- Ball and Club Cleaner
- Permanent Towing, Deluxe/Self Contained Onboard
- Sand Bottle – 2 per car
- Comfort Grip Steering Wheel
- USB Port

**Included:**
Freight and Prepping
Club Car

PROPOSAL

Standard Molded-In Body Color Options

Standard Molded Colors
- White
- Beige
- Cashmere
- Platinum
- Cream
- Sapphire

Premium Molded Colors
- Black
- Mocha
- Sangria

Premium Painted Metallic Colors
- Candy Apple Red
- Mocha
- Platinum
- Sapphire
- Black
- Glacier
- Cream

Standard Seats
- White
- Beige
- Gray
- Black

Solid Premium Seats
- Light Beige
- Camello
- Off White
- Black

Two Tone Premium Seats
- Light Beige & Off White
- Candy Apple Red & Light Beige
- Black & Gray

Monsoon Canopy Top Color Options
- White
- Beige
- Black
## Golf Car Lease/Purchase Payment Options

<table>
<thead>
<tr>
<th># of cars</th>
<th>Type of Car</th>
<th>Lease Term</th>
<th>Payment Per Car Per Month</th>
<th>Total Annual Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>2019 Tempo EFI Gas Cars</td>
<td>5 Years</td>
<td>$48,287.04</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Years</td>
<td>$58,882.14</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Purchase Price Option</td>
<td>$211,389.55</td>
<td></td>
</tr>
</tbody>
</table>

Tony Butler Municipal Golf Course will take over ownership of the 65 gas cars upon their final annual payment.

City of Kansas City/U.S. Communities
Contract #EV2024-02

Upon Acceptance of the proposed agreement and delivery of the new equipment, Club Car will pick up the existing fleet of (25) 2014 Precedent Electric golf cars, (25) 2015 Precedent Electric golf cars and (25) 2016 Precedent Electric golf cars. At that time, Club Car will payoff the existing balloon payment for an amount not to exceed $40,000 between Tony Butler and their current lender DLL Finance LLC.
ENHANCE THE GOLF EXPERIENCE

The Shark Experience is changing the game for everyone on the course. Weekend golfers and once-a-summer putters alike will enjoy this premier, in-car course entertainment and communication system designed in partnership with the Greg Norman Company and Verizon.

Along with on-course connectivity and customizable content for golfers of all ages and skill levels, the Shark Experience features:

- Instant distance-to-pin measurements
- Hole flyovers
- Pro tips
- Shot tracer
- Slacker Radio
- Bluetooth pairing
- Live sports and highlights
- Late-breaking news updates
- Streaming TV shows
## Shark Experience Options

<table>
<thead>
<tr>
<th>Course Pay</th>
<th>Golfer Purchase</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Includes all features for Golfer Experience, music, sports, news and</td>
<td>- Golf course makes Shark Experience available for purchase</td>
</tr>
<tr>
<td>entertainment (live and recorded)</td>
<td>- Potential for course to receive $0.50 for every round purchased</td>
</tr>
<tr>
<td>- Golf course sets price in greens fee or golf car rental</td>
<td>- First hole is available at no charge to all golfers</td>
</tr>
<tr>
<td>- Golf course pays $3.80 cost per golf car round</td>
<td>- Golfer pays $7.99 for use of system</td>
</tr>
<tr>
<td>- 4 year contract concurrent with golf car lease/purchase</td>
<td>- 4 year contract concurrent with golf car lease/purchase</td>
</tr>
<tr>
<td>- First 30 days free at no charge to course</td>
<td>- Course may upgrade to Course Pay at anytime</td>
</tr>
<tr>
<td>- Course may change to Golfer Purchase on their yearly anniversary date</td>
<td></td>
</tr>
<tr>
<td>- GPSI bills course monthly based on number of rounds played</td>
<td>- Golfer purchases via Shark Key (payment processing method developed in conjunction with EZ Links)</td>
</tr>
<tr>
<td></td>
<td>- Future potential to use Shark Key for cashless on-course purchasing</td>
</tr>
</tbody>
</table>

### 2018 Connectivity Offerings

<table>
<thead>
<tr>
<th>Vehicle Type</th>
<th>Car Control</th>
<th>Car Tracking</th>
<th>Shark Experience</th>
<th>Hardware Cost</th>
<th>Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tempo Connect</td>
<td>$15 per module</td>
<td>$15 per module</td>
<td>$3.80 per round</td>
<td>None</td>
<td>4 years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>B2B OR $7.99 B2C</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Precedent i3</td>
<td>$15 per module</td>
<td>$15 per module</td>
<td>Not available</td>
<td>$725 covers one module</td>
<td>4 years</td>
</tr>
</tbody>
</table>
ENHANCE THE GOLF EXPERIENCE

A new way to play golf, exercise, and experience an autonomous caddy.

Features:
• Autonomous hands-free
• Collision sensors
• Touchscreen tablet
• GPS yardages
• Real-time unit tracking
• Amenities: cooler, cup holder, USB port, divot repair seed

Technical Features:
• Four (4) units will fit in one (1) golf car space
• 95 pounds
• 24V VCD motors
• 36 hole charge
• Lithium ion batteries
• Aluminum frame
• 7 mph maximum speed
ENHANCE THE GOLF UTILITY EXPERIENCE

A new way to cover all utility needs at the golf course whether gas or electric.

Features for Carryall Vehicles:

• Gas Engine / Motor Type: Subaru® 4-cycle
• Gas Motor Type: 48 volt DC
• Bed Load Capacity 800 lb (362.8 kg)
• Towing Capacity 1200 lb (544.3 kg)
• Speed 15-17 mph (24-27 kph)
• Gas Warranty: 3 yr/3000 hr limited powertrain/frame; 2 yr limited remaining vehicle
• Electric Warranty: 4 yr limited battery warranty; 3 yr limited powertrain/frame; 2 yr limited remaining vehicle
PROPOSAL

Summary and Acceptance of Proposal

Customer: ______________________  Club Car/Dealer: ______________________

Signature: ______________________  Signature: ______________________

Title: ______________________  Title: ______________________

Date: ______________________  Date: ______________________

Please Initial Selected Lease Options

48 month lease, 12 payments per year of $/month _______

Select Precedent Golf Car Color Options

Body Color  Beige  White  Green  Platinum  Cashmere  Sapphire

Canopy Top Color  Beige  White  Black

Seat Color  Beige  White  Gray  Black

Club Protector Bag Cover  Beige  Black  Green
Fleet Care Service - Highlights

- Techs are factory trained and drive vans are stocked with inventory parts to complete 98%+ of repairs while on site.
- Every car receives hands on service every month and any down cars are responded to within 72 hours.
- Detailed scope of work that meets or exceeds the manufacturer’s recommendations is performed on every car and proper documentation is recorded for each visit.

Fleet Care Service – Scope of Work

- Batteries – Check condition, tighten all terminals, and water batteries.
- Tires – Check and maintain proper pressure.
- Electrical – Check connections, wiring, terminals, micro switches, resistor coils, nuts.
- Battery Charger – Check connector, breakers, and lubricate receptacle with WD-40.
- Front End – Inspect/adjust ball joints, wheel bearings, bushings, alignment, springs, and shocks.
- Lubrication – Lubricate all fittings, clevises, cables, brake components, wheel bearings, pedal shafts, and linkages.
- Differential – Check for leaks and damage to drive unit.
- Brakes – Inspect and adjust brakes, and perform brake service.

2018 Service Contract Options

<table>
<thead>
<tr>
<th>Plan</th>
<th>Tech Visit</th>
<th>Tires</th>
<th>Battery Charger</th>
<th>Front End</th>
<th>Lubrication</th>
<th>Differential</th>
<th>Brakes</th>
<th>Notes</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Service</td>
<td>52x per year to check 25% of fleet</td>
<td>12x / year</td>
<td>12x / year</td>
<td>4x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>No trip charges on billable repairs, extended warranty</td>
<td>$20 / month / car</td>
</tr>
<tr>
<td>Quarterly Service</td>
<td>26x per year to check 17% of fleet</td>
<td>4x / year</td>
<td>4x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>No trip charges on billable repairs</td>
<td>$10 / month / car</td>
</tr>
<tr>
<td>Semi-Annual Service</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>2x / year</td>
<td>N/A</td>
<td>$35 / year / car x 2</td>
</tr>
<tr>
<td>Annual Service</td>
<td>1x / year</td>
<td>1x / year</td>
<td>1x / year</td>
<td>1x / year</td>
<td>1x / year</td>
<td>1x / year</td>
<td>N/A</td>
<td>N/A</td>
<td>$40 / year / car</td>
</tr>
<tr>
<td>Water, Air, and Cursory Inspection</td>
<td>2x per month to complete 50% of fleet</td>
<td>Tires inspected and inflated to proper levels</td>
<td>Batteries watered and inspected</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Full inspection, no trip charges on billable repairs</td>
<td>$7 / month / car</td>
</tr>
</tbody>
</table>

Customer: ___________________________ Club Car/Dealer: ___________________________
Signature: __________________________ Signature: ___________________________
Title: __________________________ Title: __________________________
Date: __________________________ Date: __________________________
Terms and Conditions for Returning Vehicles or Trade-Ins

Sole Responsibility
Tony Butler Golf Club agrees to accept sole responsibility for any loss or damage to its returned cars beyond ordinary wear due to normal use. The returned cars must meet the following conditions:
1. All cars must be free of all liens and encumbrances.
2. All cars must be the same quantity and year model as originally evaluated.
3. All cars must be clean, and free of trash, scorecards, pencils, tees, etc.
4. All cars must have a working charger.
5. All cars must have four serviceable tires that retain proper air pressure.
6. All cars must steer properly in all directions.
7. All batteries must be free of corrosion, and properly filled with water.

**Club Car was aware of the (25) 2014 non-running electric cars and priced the trade in's accordingly. Therefore Tony Butler Golf Course will not be responsible to pay the $200 per car for these cars being inoperable.**

If any of the above conditions are not met by Tony Butler Golf Club, Club Car reserves the right to withhold any and all Special Considerations stated in this agreement. Furthermore, Tony Butler Golf Club agrees to pay the following charges if the below conditions are found upon Club Car's inspection of the returned cars:
1. Severely damaged or missing chargers $200.00 per charger
2. Inoperable cars $200.00 per car
3. Minor damage (damage to bodies, bumpers or seats) $350.00 per car
4. Major damage (frame damage, wrecked cars, etc.) $700.00 per car

Customer: ____________________________ Club Car/Dealer: ____________________________
Signature: ____________________________ Signature: ____________________________
Title: ____________________________
Date: ____________________________
Warranty

CLUB CAR® LIMITED WARRANTY FOR PRECEDENT VEHICLES

WARRANTY: CLUB CAR, LLC ("CLUB CAR") hereby warrants to the Original Purchaser or Lessee, as those terms are defined herein, and subject to the provisions, limitations and exclusions in this limited warranty, that its new vehicle or new component purchased from CLUB CAR or an Authorized Dealer or Distributor shall be free from defects in material and workmanship under normal use and service for the periods stated below, subject to the provisions, limitations and exclusions in this limited warranty.

This limited warranty covers material, workmanship and repair labor cost as to those items specifically listed below for the periods specified. Such repair labor shall be performed only by CLUB CAR, its Authorized Dealers or Distributors, or a service agency approved by CLUB CAR. For repairs made by qualified technicians other than CLUB CAR’s factory technicians or an Authorized Dealer or Distributor, CLUB CAR will provide only the replacement parts or components.

IF THE WARRANTY REGISTRATION FORM IS NOT COMPLETED AND RETURNED TO CLUB CAR AT THE TIME OF THE ORIGINAL RETAIL SALE, PURCHASER MUST PROVIDE PROOF OF DATE OF PURCHASE WITH ANY WARRANTY CLAIM.

<table>
<thead>
<tr>
<th>VEHICLE MAIN FRAME</th>
<th>12L</th>
<th>12</th>
<th>V4</th>
</tr>
</thead>
<tbody>
<tr>
<td>GASOLINE POWERTRAIN: Engine, transaxle, torque converter (drive and driven).</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>SUSPENSION: Steering gearbox, steering column, shocks, and leaf springs.</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>MAJOR ELECTRONICS: Solid state speed controller and battery charger.</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>DEEP CYCLE BATTERY: 25,000 amp hours as recorded by the controller, or four years, whichever occurs first, for vehicles properly maintained using an authorized deionizer system. Otherwise, 20,000 amp hours or four years, whichever occurs first.</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>PEDAL GROUP: Pedal group mechanical assembly, brake cluster assemblies, and brake cables.</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>SEATS: Seat bottom, seat back, and armrests.</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>CANOPY SYSTEM: Canopy, rear canopy supports, drainage system and Structural Accessory Module (SAM).</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>ELECTRIC POWERTRAIN: Electric motor, transaxle and MCOR.</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>GASOLINE SYSTEMS: Air intake system, exhaust system, and starter generator.</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>BODY GROUP: Beauty panels, and front and rear underbody.</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>ALL REMAINING COMPONENTS: Solenoid, GCOR, limit switches, voltage regulator, F&amp;R switch, and options and accessories supplied by CLUB CAR, including components not specified otherwise.</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

EXCLUSIONS: Excluded from any CLUB CAR warranty is damage to a vehicle or component resulting from a cause other than a defect including poor maintenance, neglect, abuse, accident and collision, maintenance adjustments, unreasonable or unintended strain or use, improper installation of accessories (such as connecting any accessories to less than the full pack of batteries), installation of parts or accessories that are not original equipment including non-approved GPS systems, non-approved alteration and acts of God. Also excluded from any CLUB CAR warranty are all fuses, filters, decals (except safety decals), lubricants, routine wear items such as the charger plug and receptacle, engine mounts, mats, pads, spark plugs, light bulbs, brake shoes, belts, brushes, bushings, drive buttons, cosmetic deterioration, and items that deteriorate, fade or fail due to exposure or ordinary wear and tear.

Ingersoll Rand
The provisions of this limited warranty shall not apply to failure due to the following conditions:

1. **Batteries**
   1.1 Improper charging of a vehicle due to the use of a battery charger model not approved by Club Car for use with the vehicle.
   1.2 Use of water in batteries, including tap water that contains impurities. Distilled water or a properly maintained, Club Car approved battery water deionizer and filter system should be used to ensure water quality.
   1.3 Abuse such as overcharging, undercharging, improper fluid levels, loose wiring and fasteners, or rusted or corroded hardware.
   1.4 Use of energy management systems that do not allow a minimum of 12 hours of charge time to assure proper charging.
   1.5 Use of any accessories that do not draw power off the complete 48V pack.
   1.6 Neglect, breakage, freezing, fire, explosion, wreckage, melted terminal posts, the addition of any chemical, or the operation of the battery in an uncharged condition (below half charge 1.200 specific gravity); the installation of the batteries in reverse or recharging in reverse, breakage of containers, covers, or terminal post, or batteries used in applications for which they were not designed.
   1.7 A battery damaged by a defective charger or batteries in vehicles that do not receive proper charging.

2. Lack of proper maintenance such as preventive maintenance checks, proper rotation of vehicles in a fleet application, maintaining proper tire pressure and alignment and tightening loose wire connections as outlined in the owner's manual.

3. Damages caused by improper installation of the component.

4. Failed semiconductor parts such diodes and fuses that are vulnerable to electrical overloads (including lightning) beyond the control of CLUB CAR.

5. Damaged charger AC and DC cord set with plug, which is a wear item and subject to user abuse.

6. Use of gasoline containing more than 10% ethanol. Transportation expenses for warranty services are also excluded from this warranty.

Without limiting the generality of the foregoing in any way, and as part of its limited warranty exclusion, CLUB CAR does not warrant that its vehicle or components such as batteries, computer, controller or electrical device are suitable for use in any application other than in its products. As in the use of any vehicle, batteries, computer, controller or electrical device, a prudent owner will read and study the owner's manual, the operator instructions and the warning labels; and will exercise due care in working on or around vehicles, batteries or electrical devices.

Transportation expenses for warranty services are also excluded from this warranty.

**VOIDING OF WARRANTY:** THIS AND ANY OTHER WARRANTY SHALL BE VOID IF THE VEHICLE OR COMPONENT IS ABUSED OR USED IN AN UNINTENDED MANNER OR SHOWS INDICATIONS THAT IT HAS BEEN ALTERED IN ANY WAY, INCLUDING, BUT NOT LIMITED TO, MODIFICATION OF THE SPEED GOVERNOR, BRAKING SYSTEM, STEERING, TRANSAXLE, OR OTHER OPERATING SYSTEMS OF THE CAR TO CAUSE IT TO PERFORM OUTSIDE CLUB CAR SPECIFICATIONS. THE WARRANTY IS LIKewise VOID IF THE VEHICLE SHOWS INDICATIONS THAT REASONABLE OR NECESSARY MAINTENANCE AS OUTLINED IN THE OWNER'S MANUAL AND MAINTENANCE AND SERVICE MANUAL WAS NOT PERFORMED AT THE TIME AND IN THE MANNER SPECIFIED IN SUCH MANUALS.
SOLE REMEDY: CLUB CAR's liability under this limited warranty or in any action whether based upon warranty, contract, negligence, strict product liability or otherwise, shall be the repair or replacement, at CLUB CAR's option, of the vehicle or component thereof that CLUB CAR deems to be defective. Replacement shall mean furnishing, during the applicable limited warranty period, a new vehicle or factory-reconditioned vehicle or component thereof that is identical or reasonably equivalent to the warranted product or component at no cost to the purchaser. Repair shall mean remediying a defect in the vehicle or component thereof at no cost to the purchaser during the applicable limited warranty period. CLUB CAR reserves the right to test and recharge any component returned for adjustment. If CLUB CAR elects to repair the vehicle or component, it may provide factory-reconditioned parts or components. All parts and components replaced under warranty shall become the property of CLUB CAR.

DISCLAIMER: THIS LIMITED WARRANTY IS EXCLUSIVE. CLUB CAR MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED. ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY CLUB CAR AND EXCLUDED FROM THIS WARRANTY. THE PURCHASER AND CLUB CAR EXPRESSLY AGREE THAT THE SOLE REMEDY OF THE REPLACEMENT OR REPAIR OF THE DEFECTIVE VEHICLE OR COMPONENT THEREOF IS THE SOLE REMEDY OF THE PURCHASER. CLUB CAR MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, AND NO REPRESENTATIVE, EMPLOYEE, DISTRIBUTOR OR DEALER OF CLUB CAR HAS THE AUTHORITY TO MAKE OR IMPLY ANY REPRESENTATION, PROMISE OR AGREEMENT, WHICH IN ANY WAY VARIES THE TERMS OF THIS WARRANTY.

In the event that another pre-printed warranty document, certificate or both offered by or through Club Car at the time of sale of this vehicle (each an “Additional Warranty Document”) is deemed to conflict with the limitations or exclusions contained herein, the limitations and exclusions contained herein shall continue to apply to both this limited warranty statement and, to the maximum extent permitted by law, to each Additional Warranty Document.

NO CONSEQUENTIAL DAMAGES: IN NO EVENT SHALL CLUB CAR BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS RELATED TO PROPERTY OTHER THAN THE VEHICLE, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, OR ANY OTHER ECONOMIC LOSS.

Some states allow neither limitation on the duration of an implied warranty nor exclusions or limitation of incidental or consequential damages. Therefore, the above limitations or exclusions may not apply to you. This warranty gives you specific legal rights, and you may also have other rights, which vary from state to state.

HOW TO MAKE A WARRANTY CLAIM: To make a warranty claim under this limited warranty, you must present the vehicle or defective component with evidence of proof of purchase date and number of amp hours (if applicable) to an authorized CLUB CAR dealer.

For warranty-related communication, contact Warranty Services, Club Car, 4125 Washington Rd., Evans, GA 30809, USA, 706.863.3000.

WARNING: Any modification or change to the vehicle that affects the electrical system, stability or handling of the vehicle, or increases maximum vehicle speed beyond factory specifications, could result in severe personal injury or death.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: November 7, 2018

Agenda Item:
Consider and take action to approve contract with Elizabeth Rose Flores to provide water aerobics instruction at Pendelton Park Pool.

Prepared By: Javier Mendez
Title: Director of Parks and Recreation

Summary
The contract for water aerobics classes with Rose Flores has expired. Mrs. Flores has requested from the City to consider modifying the terms of the contract to be similar to the one with John Tucker for competitive swim classes. The term of the contract will be for one year with an annual payment of $2,400.00 for the use of the pool rather than the City paying 80% of the collections to Mrs. Flores. The contract will require Mrs. Flores to carry the required insurance coverage for the term of the agreement.
The schedule for water aerobics is at Pendleton Pool is Monday, Wednesday and Fridays with two sessions; one being at 9:00 a.m. to 10:00 a.m. and the other at 6:30 p.m. to 7:30 p.m.
The Parks and Recreation Advisory Board on October 16, 2018 recommended approving the agreement with the terms being presented.

Staff Recommendation:
Staff recommends to the City Commission to approve the contract with Elizabeth Rose Flores to provide water aerobics instruction at Pendelton Park Pool.

City Manager’s approval:

City Attorney’s approval:
CONTRACTUAL AGREEMENT

This contract, made this ____ day of November 2018 by and between CITY OF HARLINGEN, a Municipal Corporation situated in Cameron County, Texas, and acting herein by and through its duly authorized City Manager, hereinafter designated as “CITY”, having its principal Administrative offices at 118 E. Tyler Street, Harlingen, Texas 78550, and Elizabeth Rose Flores, hereinafter referred to as “CONTRACTOR”, an individual(s) residing at 2214 Horseshoe Circle, Harlingen, Texas 78550.

NOW, THEREFORE, for and in consideration of the services and mutual promises of the parties and the mutual benefits they will gain by their performance thereof, all in accordance with the provisions hereinafter set forth, CITY and CONTRACTOR, agree as follows:

I. PROVISIONS OF SERVICES

Elizabeth R. Flores will serve as CONTRACTOR for Water Aerobics Instruction for the enjoyment of Pendelton Park Pool Guest. Water Aerobics will be conducted at the City owned pool known as Pendelton Park Pool. CITY shall be responsible for providing supplies, materials or equipment needed to instruct aerobics. CONTRACTOR will coordinate the scheduled use of the pool with CITY. CITY shall be responsible for the arrangement and maintenance of the activity area in accordance with specifications given by the CONTRACTOR at the time of scheduling. Any relevant building specification changes must be arranged at least ten days prior to activity date.

II. TERM OF AGREEMENT

The term of this agreement is for one (1) year and will begin on the 7th day of November, 2018, and end on the 6th day of November, 2019.

III. COMPENSATION

Consideration to be paid to the CITY for the use of the Pendleton Park Pool is Two Thousand Four Hundred Dollars ($2,400.00) annually and payable in 12 monthly installments of Two Hundred Dollars ($200.00). Said monthly sums shall be due the 1st day of each month and payable to the CITY at the office of the Parks and Recreation of said CITY at 502 E. Tyler, Harlingen Texas.

IV. PROFESSIONAL LIABILITY

In connection with the services provided under this Agreement, CONTRACTOR will indemnify and hold CITY, the Harlingen Parks and Recreation, its officials, officers, deputies, agents and employees, harmless for any and all claims, lawsuits, legal expenses and other costs related to the performance or non-performance of this Agreement.

V. INSURANCE

In order to insure CONTRACTOR’S obligation pursuant to this paragraph, CONTRACTOR shall obtain and maintain during the term hereof a Commercial General Liability Insurance policy covering all operations and services under this Contract with limits for damages claimed by any person or organization for care, loss of
services or death resulting at any time from the bodily injury and property damage combined in the amount of not less than ONE MILLION DOLLARS ($1,000,000.00) Per Occurrence and TWO MILLION DOLLARS ($2,000,000.00) Aggregate. Commercial General Liability insurance shall be written to include, on an occurrence basis, bodily injury and property damage losses resulting from (1) conditions of the premises, (2) business operations, (3) product liability, (4) completed operations and (5) operations of independent contractors. CONTRACTOR shall procure and maintain Worker’s Compensation insurance and shall include Employer’s Liability Insurance of at least FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) for each accident, FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) for Disease-Policy Limit, and FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) for Disease-Each Employee. The insurer shall waive all rights of subrogation against CITY, its officials, employees, and volunteers for losses arising from the activities under this contract. Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits without thirty (30) days prior written notice first having been provided to CITY. Insurance is to be placed with insurers with a Best Rating of less than A. The insurance company must be duly authorized to do business in the State of Texas. A certificate of insurance reflecting the above required insurance coverage and limits of liability must be provided to the CITY prior to the annual renewal date of policy. The certificate should include the endorsement naming CITY, as an additional insured. Certificate of Insurance shall be forwarded to: RISK MANAGER, CITY OF HARLINGEN, 118 E. TYLER, P. O. BOX 2207, HARLINGEN, TEXAS 78551. In the event CONTRACTOR permits such insurance to expire or lapse during the term of this contract, CITY shall have the right to terminate this agreement by giving thirty (30) days written notification thereof by registered certified mail to CONTRACTOR.

VI.
ENTIRE AGREEMENT

This instrument contains the entire agreement between the parties. Any oral representations or modifications concerning this agreement will be of no force effect unless a subsequent modification in writing is signed to by the parties. This Agreement may be amended, provided that no amendment, modification or alteration of the terms of this Agreement will be binding unless the same is in writing and duly executed by the parties hereto.

VII.
BREACH OF OBLIGATION

This Agreement is entire as to all of the performances to be rendered under it. Breach of any obligations to be performed by either party will constitute a breach of the entire Agreement and will give the other affected party the right to terminate this Agreement.

VIII.
TERMINATION

Either party, by giving ten (10) days written notice to the other party, may terminate this contract at anytime and for no reason.

IX.
ASSIGNMENT

This Agreement shall not be assignable or sub-concessioned at all in whole or in part by CONTRACTOR without the consent and approval of CITY, set forth in writing and signed by both parties. Any assignee or sub-concessionaire will be bound by the terms of this contractual agreement and amendment, if any.
X.
NOTICES

Any notice or writing required or permitted to be given under the terms of this Agreement will be regarded as delivered when a copy of the same has been delivered to the party entitled to receive it by Certified Mail, Return Receipt Requested, or by personal delivery at the address given below or such other address as a party may designate by written notice to the other party.

TO CONTRACTOR: Elizabeth Rose Flores
2214 Horeshoe Circle
Harlingen, Texas 78550

TO CITY: Dan Serna, City Manager
City of Harlingen
118 E. Tyler
Harlingen, TX 78550

XI.
RELATIONSHIP OF PARTIES

CONTRACTOR is acting as an independent contractor and is wholly responsible for the duties as identified in Paragraph I, Provision of Services. No joint venture, partnership, or agency exists between CITY and CONTRACTOR, nor will one be implied by the terms of this Agreement.

XII.
INVALIDITY OF PARTICULAR PROVISIONS

If any section, paragraph, sentence, or phrase hereof is held to be illegal or unenforceable by a court of competent jurisdiction, such illegality or unenforceability shall not affect the remainder of this agreement.

XIII.
LAW GOVERNING VENUE

This Agreement shall not be assignable without the express written consent of CITY. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, and, the obligations and undertakings of each of the parties to this Agreement will be performable in Cameron County, Texas. The parties agree that Cameron County, Texas shall be the proper place for any litigation between the parties hereto and that Texas law shall govern the interpretation of the provisions hereof.

WITNESS OUR HANDS THIS _____ DAY OF __________, 2018

CITY OF HARLINGEN
BY: ____________________________
   Dan Serna, City Manager

ATTEST:
BY ____________________________
   Amanda C. Elizondo, City Secretary

CONTRACTOR
BY: ____________________________
   Elizabeth Rose Flores