CITY COMMISSION
AGENDA
MAY 2, 2019
@ 5:30 P.M.
CITY HALL, TOWN HALL
118 E. Tyler Street
Harlingen, Texas

Notice is hereby given that the above governmental body will hold a Regular Meeting on Thursday, May 2, 2019, 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/City Commissioner, Tudor Uhlhorn

Pledge of Allegiance/Welcome

1) Presentation of the following proclamations:
   a) declaring the month of May, 2019 as “Elder Abuse Awareness.” Attachment
   b) declaring the week of May 5th thru 11th, 2019 as “Drinking Water Week.” Attachment
   c) declaring May 2019 as “Lupus Awareness Month.”

2) Presentation by the Harlingen Consolidated Independent School District Career Technology (HCISD) Director Raul Alvarez to update the City Commission on the current status of the HCISD Fire Academy completion of its second year. Attachment (Fire Dept.)

3) Approval of Minutes
   a) Regular Meeting of January 16, 2019.

CONSENT AGENDA

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 Items withdrawn from the Consent Agenda for individual consideration in their normal sequence will be heard after the remainder of the Consent Agenda has been acted upon.
4a) Second and final reading to approve an ordinance to rezone from Light Industry (L-I) District to Single Family Residential (R1) District for Lots 9-16, Block 2, and Lots 1-8, Block 3, Commercial Heights Subdivision, located at 1201-1230 W. Madison Avenue and 218 N. L Street. Applicant: City of Harlingen and Lauren K. Christy. Attachment (Planning & Zoning)

b) Consideration and possible action to authorize the Mayor, on behalf of the City of Harlingen, to submit and accept STEP grant funding in the amount of $4,000.00 made available through the Texas Department of Transportation (TxDOT) Click It or Ticket Program. Attachment (Police Dept.)

5) Consideration and possible action to grant a variance with regards to the subdivision note requirement for sidewalks, bearing a legal description of a 38.673 acre tract of land more or less, same being 21.217 acres out of Block 4, Stuart Place Subdivision and 17.456 acres out of Stuart Place Resort Section 1 & Reserve, located on the north side of Queen Sago Drive, west of Knoty Pine Lane. Applicant: Jack Brown of Brown, Leal & Associates, c/o Sun Valley Enterprise. Attachment (Planning & Zoning)

6) Consideration and possible action to approve a Memorandum of Understanding (MOU) between the City of Harlingen and South Texas Amateur Repeater Society to provide support services to City of Harlingen during the activation of the Emergency Operation Center and authorize the City Manager to sign the (MOU) in the event of customary modes of communication are compromised. Attachment (Fire Dept.)

7) Consideration and possible action to approve a contract between Stacey Lara and City of Harlingen to provide a "Learn to Swim" program at the Pendleton Park and authorize the City Manager to sign the contract. Attachment (Parks & Recreation)

8) Consideration and possible action to approve an Interlocal Agreement between the City of Harlingen and the Harlingen Consolidated Independent School District for the use of two school buses during the Parks and Recreation 2019 Summer Recreation and Track Program and authorize the City Manager to sign the agreement. Attachment (Parks & Recreation)

9) Consideration and possible action to approve a Facility Use Agreement between the City of Harlingen and Rio Grande Valley Football Club Toros for the use of the Harlingen Soccer Complex and authorize the City Manager to sign the agreement. Attachment (Parks & Recreation)

10) Board Appointments
    Discussion and possible action regarding membership on any of the following listed board/entity:
        a. Airport Board
        b. Animal Shelter Advisory Committee (1)
        c. Audit Committee (Terms expire annually in June)
        d. Civil Service Commission (1)
        e. Community Development Advisory Board (1)
f. Construction Board of Adjustments (5)
g. Convention & Visitors Bureau (3)
h. Development Corporation of Harlingen, Inc. (1)
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 (1)
n. Harlingen Proud Advisory Board (4)
o. Library Advisory Board
p. Mayor Wellness Council
q. Museum Advisory Board (4)
r. Parks Advisory Board
s. Planning & Zoning Advisory Board (1)
t. Senior Citizens Advisory Board (9)
u. Tax Increment Finance Board (1)
v. Utility Board of Trustees
w. Veterans Advisory Board (2)
x. Zoning Board of Adjustments (9)
y. Complete Census Committee

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.

11) Executive/Closed Session 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 Dream and to seek legal advice from the City Attorney regarding the subject matter. (City Manager)

12) Consideration and possible action on Item No. 11. (City Manager)

13) 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, April 26th, 2019 at 5:45 p.m. at least 72 hours preceding the scheduled time of said meeting.

Dated this 26th day of April, 2019

Amanda C. Elizondo, City Secretary
### Agenda Item

**Meeting Date:** May 1, 2019

**Agenda Item:**

A proclamation declaring May 05-11, 2019, Drinking Water Week.

**Prepared By (Print Name):** Timothy Skoglund, P.E.  
**Title:** General Manager  
**Signature:** [Signature]

**Brief Summary:**

This is an annual event in which the Waterworks participates, in conjunction with the American Water Works Association, “Drinking Water Week”. This event allows us to give back to the community offering free drinking water and handing out informational and promotional items.

**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:**

A proclamation recognizing May 05-11, 2019 as Drinking Water Week.

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

**Comments:**

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

(form revised 01/26/09)
Mayor's Proclamation

WHEREAS, water is our most valuable natural resource; and

WHEREAS, only tap water delivers public health protection, fire protection, support for our economy and the quality of life we enjoy; and

WHEREAS, any measure of a successful society – low mortality rates, economic growth and diversity, productivity, and public safety – are in some way related to access to safe water; and

WHEREAS, we are all stewards of the water infrastructure upon which future generations depend; and

WHEREAS, each citizen of our city is called upon to help protect our source waters from pollution, to practice water conservation, and to get involved in local water issues by getting to know their water;

NOW, THEREFORE, be it resolved that by virtue of the authority vested in me as Mayor of our City, I do hereby proclaim May 5-11, 2019 as Drinking Water Week.

Signature of Mayor

(OFFICIAL SEAL)
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date:  May 1, 2019

Agenda Item:
Presentation by the HCISD Career Technology Director Raul Alvarez to update the City Commission on the current status of the HCISD Fire Academy in completion of its second year.

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

Brief Summary:
The City of Harlingen & HCISD has an MOU in place in support of a Fire Fighter Certification program at HCISD. This report is an update as the first group of students, who started this program in 2017, will be graduating this year as certified FF/EMTS. The program is well grounded and continues as a second group of students completes their first year of the HCISD Fire Academy.

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

Staff Recommendation:

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

Comments:

City Attorney’s approval: □ Yes □ No □ N/A
REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

JANUARY 16, 2019

A Regular Meeting of the Harlingen Elective Commission was held January 16, 2019 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
Richard Uribe, City Commissioner, District 1
Tudor Uhlhorn, City Commissioner, District 2
Michael Mezmar, Mayor Pro-Tem, District 3
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
Allison Bastian, 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 Tudor Uhlhorn

Pledge of Allegiance/Welcome

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

1) Approval of Minutes

a) Regular Meeting of November 7, 2018

Motion was made by Commissioner Uhlhorn and seconded by Commissioner Uribe to approve the minutes of November 7, 2018. Motion carried unanimously.

2) Recognition to the City of Harlingen, Vital Statistics Department, Recipient of the 2018 Exemplary Five-Star Service Award.

Mayor Boswell stated the Vital Statistics Department was the recipient of the 2018 Exemplary Five-Star Service Award for Year 2018. He congratulated Josh Ramirez, Health Director, Diana Vargas, Local Registrar, and Noemi De La Fuente, Vital Statistics Clerk for a job well done.

CONSENT AGENDA

3a) Second and final reading to approve and adopt an ordinance to annex and to establish the initial zoning to General Retail ("GR") District for a 1.0+ acre of land being the North 50 feet of a 2.755 acre tract of land out of Block 54, David and Stephenson Subdivision, located on the west side of Briggs Coleman Road north of Loop 499. Applicant: John W. Drennan, c/o Troy Investment Company No. 7, L.P.
b) Consideration and possible action to approve a contract between the City of Harlingen and Harlingen and San Benito Housing Finance Corporation for funding in the amount of $30,000 to construct affordable single family housing in conjunction with the Habitat for Humanity Project and authorize the City Manager to sign the contract.

c) Consideration and possible action to approve a request to close the following streets: Fair Park Blvd. from "J" Street to "L" Street; "L" Street at W. Adams Street and the streets immediately adjacent to the Casa de Amistad and Harlingen Auditorium for the following events:

Kidfit Event is sponsored by the Junior League of Harlingen and will be held Saturday February 9, 2019 from 6:30 a.m. to 12:00 noon at Lon C. Hill Park.
Harlingen Marathon Packet Pick-up and Fitness Expo will also be on Saturday, February 9, 2019 from 10:00 a.m. to 6:00 p.m. at the Casa de Amistad.
The 2019 Harlingen Marathon is on Sunday, February 10, 2019 from 4:00 a.m. to 2:30 p.m.

d) Consideration and possible action to approve the final plat of the proposed Sunshine Health Care Subdivision, bearing a legal description of 7,000 acre tract of land out of a 35.09 acre tract, located in Block 182 of the San Benito Land and Water Company Subdivision, located on the south side of S. 77 Sunshine Strip (Loop 448), west of North Whalen Rd. Applicant: James E. Rose of Mejia and Rose, Inc. c/o Star Development Co.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the consent agenda, Item 3 (a) through (c), and passed on Item 3 (d). Motion carried unanimously.

4) Consideration and possible action to approve an ordinance to designate a "No Parking Zone" on Hitching Post Boulevard from the intersection of Garrett Road extending 610 feet on both sides of the street to the intersection with Wagon Trail and around the four landscape islands on Hitching Post Boulevard.

Mayor Boswell announced Item 4 would be postponed for further review by staff.

5) Consideration and possible action to adopt a resolution directing staff to prepare a service plan and initiate proceedings for the voluntary annexation of a 36.46 acre tract of land, more or less, consisting of all of Block 99, Wilson Tract Subdivision, saving and excepting 3.54 acres of land, more or less, located with the plat of Pelican's Landing Estates, Phase I, located north of Pink Flamingo Street east of Tamm Lane. Applicant: David Salinas, c/o Arturo Ortega.

Rodrigo Davila, Planning and Zoning Director stated David Salinas, applicant on behalf of Arturo Ortega, property owner, is requesting voluntary annexation of a 36.46 acre tract of land. All of the property is outside, but adjacent to the current city limits and is vacant. The applicant is proposing to subdivide the property into a one hundred sixty lot single family residential subdivision to be done in four phases. The proposed subdivision will have frontage and access from Brown Pelican Lane and access from Seahawk Lane. 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. The water and wastewater disposal for this subdivision will be provided through Harlingen Water Works System. The developer has requested Residential, Single Family ("R-1") District Zoning for this property. Three public hearings and two (2) readings of the ordinance will be required to annex this property.
Motion was made by Commissioner Leal and seconded by Commissioner Mezmar to adopt a resolution directing staff to prepare a service plan and initiate proceedings for the voluntary annexation of a 36.46 acre tract of land, more or less, consisting of all of Block 99, Wilson Tract Subdivision, saving and excepting 3.54 acres of land, more or less, located with the plat of Pelican's Landing Estates, Phase I, located north of Pink Flamingo Street east of Tamm Lane. Motion carried unanimously.

6) Public hearing and take action to consider an Ordinance on First Reading to rezone from Heavy Industry ("HI") District to Light Industry ("LI") District for 17.74 acres out of Lot 1, Block 1, Texas Pipe Bending Subdivision, located at 5129 E. Harrison. Applicant: Omar Villarreal.

Mr. Davila stated the applicant submitted a similar request; however the rezoning request failed due to a lack of a second. motion. The property is 345 feet of the frontage on East Harrison Avenue and a depth of 1,171 feet at is longest point. There is an existing 5,696 sq. ft. building on the property. The surrounding properties are zoned Heavy Industry ("HI") District to the east and Light Industry (LI) to the west. The north and south part of the subject property is located outside the city limits. The Future Land Use Plan (FLUP) component of the City of Harlingen Comprehensive plan shows this area as industrial use. The Comprehensive Plan defines industrial use as larger properties typically used for manufacturing products, storage and distribution of goods, or mining or construction activities. The Planning and Zoning Department has not received any comments for or against the request from the surrounding property owners.

Commissioner Mezmar stated this item had been discussed before. He asked if the church wished to purchase this property or have they purchased it; were property taxes due; and if the church qualified for a light industry zone.

Mr. Davila responded there were no taxes due and if it became a church the property would be exempt from taxes. The church would be allowed because there is nothing to show. The land is consistent with the land use.

a) Public Hearing

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

Pastor David Villarreal from 127 Resaca Shores, San Benito, TX stated that after several years of fasting and praying, they had come across the this property that had three (3) ft. of grass all throughout the entire property with debris steel and hundreds of railroad tires. After great consideration, they decided to approach the City with the hope that the City Commission would grant them the opportunity to make something great of this property.

Raudel Garza, Manager and Chief Executive Officer for the Development Corporation of Harlingen, Inc., stated the fuel distributor to the west of this property is planning on expanding the facilities. They are planning on bringing a rail spur onto the property. The EDC is working with them to get the rail spur done. They are looking at anywhere from two (2) to (5) five rail cars a day which is anywhere from 30 to 60 thousand gallons a day of fuel coming through and sometimes more. This will generate more jobs. They are located in a light industry zone which is the proper place to be for this type of business. The warehouse to the east of the property is dilapidated and is not marketable, but we continue to do things to make it marketable. If there is a change of zone or use, it could be detrimental to continue the development of the industrial park, creation of jobs and create light and heavy industry.

There being no more comments, Mayor Boswell closed the public hearing.
Commissioner Uribe stated nothing had changed from the last time this item was discussed.

b) **Consideration and possible action to approve an ordinance on first reading to rezone the above described property from Heavy Industry ("H") District to Light Industry ("LI") District.**

Allison Bastian, Asst. City Attorney read the caption of the ordinance.

Motion was made by Commissioner Uribe and seconded by Commissioner Uhlhorn to deny the rezone from Heavy Industry ("HI") District to Light Industry ("LI") District for 17.74 acres out of Lot 1, Block 1, Texas Pipe Bending Subdivision, located at 5129 E. Harrison.

Commissioner Uhlhorn stated the City Commission did not take something like this lightly or take any pleasure in doing this. This is a question of it not being done properly to begin with. Typically someone would come in before they purchase a piece of property to check if they could change the zoning for the proposed use. Then, they decide whether they want to complete the purchase. In this case, the church completed the purchase and is asking to do something that we do not believe is in the City's best interest. It is nothing about you, Pastor Villarreal, it is about everybody and so I just want you to know we are not taking it out on you. If this would have been done in the normal sequence, we would not be here today.

Mayor Boswell stated, if the church would have some activities, it could interfere with the Heavy Industry companies' activities and what you want to do with that property. The City wants to avoid that from happening.

Mayor Boswell entertained a vote and it carried as follows: FOR: NONE, AGAINST: Mayor Pro-Tem Mezmar, Commissioners: Uribe, Uhlhorn, De La Rosa and Leal.

7) **Public hearing to consider an ordinance on first reading for a Specific Use Permit to allow a contractor/shop, plumbing in a General Retail (GR) District located at 2505 F.M. 508, bearing a legal description of Lot 2, Block 1, Alexandria Estates Subdivision, Roberto Cabrera.**

Mr. Davila stated the property is located on the north side of F.M. 508 and has 97 sq. ft. of frontage along F.M. 508 and a depth of 387.87 ft. He highlighted the zoning designation of the surrounding properties to east, west, south and north of the proposed area. The applicant is requesting a Specific Use Permit for a plumbing business to use primarily for offices and business vehicles. The property is currently vacant. Surrounding land uses include mechanic shop, auto body shop, agricultural and single family residences. The applicant is proposing a 2,400 sq. ft. building for offices and plumbing materials. Hours of operation are Monday through Saturday from 8 a.m. to 5 p.m. Service calls will be handled from different locations throughout the valley. The Zoning Ordinance requires one parking space for each 400 sq. ft. of floor area; therefore, six (6) parking spaces are required. Mr. Cabrera is proposing approximately 10 parking spaces. The Engineering, Environmental Health, Fire Prevention and Building Inspections will review and verify compliance prior to the insurance of a building permit. P&Z and Staff recommend approval – of the request subject to the following that compliance with the requirements administered by Planning and Zoning, Engineering, Health, Fire Prevention, and Building Inspection Departments. This area was zoned when the property was annexed in 2008 or 2009.

a) **Public Hearing**

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

b) Consideration and possible action to approve an ordinance on first reading for a Specific Use Permit to allow a contractor/shop, plumbing in a General Retail (GR) District at the above described property.

Allison Bastian, Asst. City Attorney, read the caption of the ordinance.

Motion was made by Mayor Pro-Tem Mezmar and seconded by Commissioner De La Rosa to approve an ordinance on first reading for a Specific Use Permit to allow a contractor/shop, plumbing in a General Retail (GR) District located at 2505 F.M. 508, bearing a legal description of Lot 2, Block 1, Alexandria Estates Subdivision. Motion carried unanimously.

8) Executive/Closed Session on the following items:

a) pursuant to Section 551.071, Texas Gov't. Code to consult with the City Attorney in connection with the MPO Merger.

b) 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.

At 6:06 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item 8 (a & b).

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to convene into executive session to discuss Item No. 8 (a & b). Motion carried unanimously.

At 6:47 p.m., Mayor Boswell announced the City Commission had completed its executive session and declared the meeting open to the public.

9) Consideration and possible action to approve Item 8 (b) as discussed in executive session.

Motion was made by Commissioner De La Rosa and seconded by Mayor Pro-Tem Mezmar to approve Item 8 (b) as discussed in executive session.

10) Citizen Communication

None

There being no further business to discuss, Mayor Boswell adjourned the meeting.

City of Harlingen

ATTEST:

Chris Boswell, Mayor

Amanda C. Elizondo, City Secretary
ORDINANCE NO. 19

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONE FROM LIGHT INDUSTRY (LI) DISTRICT TO SINGLE FAMILY RESIDENTIAL (R1) DISTRICT FOR LOTS 9-16, BLOCK 2, AND LOTS 1-8, BLOCK 3, COMMERCIAL HEIGHTS SUBDIVISION, LOCATED AT 1201-1230 W. MADISON AVENUE AND 218 N. L STREET; 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:

Rezone from Light Industry (LI) District to Single Family Residential (R1) District for Lots 9-16, Block 2, and Lots 1-8, Block 3, Commercial Heights Subdivision, located at 1201-1230 W. Madison Avenue and 218 N. L Street.

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 ____________, 2019 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 to rezone from Light Industry (LI) District to Single Family Residential (R1) District for Lots 9-16, Block 2, and Lots 1-8, Block 3, Commercial Heights Subdivision, located at 1201-1230 W. Madison Avenue and 218 N. L Street. Applicant: City of Harlingen and Lauren K.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: May 2, 2019

Agenda Item:
Consider and take action to authorize the Mayor, on behalf of the City of Harlingen, to submit, accept and expend STEP grant funding in the amount of $4,000.00 made available through the Texas Department of Transportation (TxDOT) Click It or Ticket Program.

Prepared By (Print Name): Michael Kester
Title: Chief of Police
Signature: 

Brief Summary:
The Harlingen Police Department will be utilizing the TxDOT Click It or Ticket Program funding for overtime costs and operating expenses to the City of Harlingen for providing additional manpower in a state-led and unified strategy to increase effective enforcement and adjudication of public safety-related laws to reduce fatal and serious injury crashes and to increase occupant restraint use in all passenger vehicles & truck. The City of Harlingen is responsible for a 20% match ($800.00).

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: $4,000.00 will derive from reimbursement requests to the TxDOT. 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 TxDOT STEP grant funding allocated to the City of Harlingen Police Department.

City Manager's approval:  Yes  No  N/A

Comments:

City Attorney's approval:  Yes  No  N/A
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: May 2, 2019

Agenda Item:
Consider and take action to grant a variance with regards to the subdivision note requirement for sidewalks, bearing a legal description of a 38.673 acre tract of land more or less, same being 21.217 acres out of Block 4, Stuart Place Subdivision and 17.456 acres out of Stuart Place Resort Section I & Reserve, located on the north side of Queen Sago Drive, west of Knotty Pine Lane. Applicant: Jack Brown of Brown, Leal & Associates, c/o Sun Valley Enterprise.

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

Brief Summary:
Project Timeline
- November 02, 2018 – Original preliminary plat application and subdivision application submitted to the City
- November 21, 2018 – Subdivision reviewed by the Subdivision Review Committee.
- November 26, 2018 – Letter sent to applicant outlining deficiencies; application deemed incomplete.
- December 3, 2018 – Variance application submitted to the City. (ATTACHMENT 1).
- December 12, 2018 – The P&Z Commission recommended disapproval by a 3 to 2 vote.
- December 19, 2018 – Consideration of variance request by the City Commission. The City Commission passed on variance at the request of the applicant. The variance request was also under further review by the City Legal Department.
- May 2, 2019 – Consideration of variance request by the City Commission.

Summary
- The developer is requesting a variance from the City of Harlingen Code of Ordinances Section 109-124(f) with regards to the requirement of sidewalks the city staff deems necessary. The developer is required to have a plat note stating that sidewalks are required at the time of construction.

- The City has approved the ADA Transition Plan in October 2014 to provide accessibility for people with disabilities.

- The subject property is currently undeveloped. It is located inside the City Limits, on the north side of Queen Sago Drive, west of Knotty Pine Lane. The preliminary plat for Woodland Oaks Subdivision was previously approved in September 2013, which was before the subdivision note for a sidewalk was required. Phase I was developed, and now the remaining phases are being redesigned and replatted. Any new subdivisions, replats, or amendments must comply with the current subdivision rules. (ATTACHMENT II).

- The surrounding land use consists of single family residential use to the east, agricultural use to the north and south, and mobile home residential use to the west. The surrounding properties to the east and west are subdivided, and the properties to the north and south are unsubdivided.
(ATTACHMENT III).

- The variance request was reviewed by the Engineering Department. The Engineering Department reported objection to the variance request. They state that the continuity of the sidewalks with Phase I will be taken care of by the City in the future. The sidewalks are to create walkable neighborhoods to promote a healthy lifestyle, The rural section roadways surrounding the subdivision can be expanded in the future to include sidewalk. (ATTACHMENT IV).

- In accordance with Section 109-27(c) of the Harlingen Code of Ordinances, no variance shall be recommended unless the Planning and Zoning Commission finds:
  1. There are special circumstances or conditions affecting the land involved such that a strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land; and
  2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
  3. The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property owners in the area; and
  4. The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with this chapter.

- In addition, Section 109-27(d), states “Financial hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.”

- A 4/5ths vote of the City Commission shall be required to override a recommendation for/or against the variance from P&Z Commission.

**Staff Recommendation:**

Staff recommends disapproval of the variance as:

1. The variance request does not comply with the findings outlined in Section 109-27(c) of the Code of Ordinances;
2. There is no undue hardship for the request, as the requirement from the developer is to add a subdivision note to require a sidewalk at time of construction;
3. There is no obstruction which prevent the installation of the sidewalk; sidewalks also create a walkable neighborhood to promote a healthy lifestyle;
4. The Engineering Department has objection to the variance being granted.

**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:  
City Manager’s approval:  
City Attorney’s approval:  
Comments:
**Attachment I—Application**

**CITY OF HARLINGEN PLANNING AND ZONING DIVISION**  
**MASTER APPLICATION**

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

<table>
<thead>
<tr>
<th>Project Address</th>
<th>Nearest Intersection</th>
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</thead>
<tbody>
<tr>
<td></td>
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<table>
<thead>
<tr>
<th>(Proposed) Subdivision Name</th>
<th>Block</th>
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<tbody>
<tr>
<td>Amendeúndividing's Phase II</td>
<td>4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Existing Zoning Designation</th>
<th>Future Land Use Plan Designation</th>
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</thead>
<tbody>
<tr>
<td>R-1</td>
<td>R-1</td>
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**OWNER/APPLICANT INFORMATION:** *(Please PRINT or TYPE)*

<table>
<thead>
<tr>
<th>Applicant/Authorized Agent</th>
<th>Phone</th>
<th>FAX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ben Allen</td>
<td>990-484-1464</td>
<td></td>
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<table>
<thead>
<tr>
<th>Email Address</th>
<th>Phone</th>
<th>FAX</th>
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</thead>
<tbody>
<tr>
<td><a href="mailto:BenAllen@Time.com">BenAllen@Time.com</a></td>
<td>990-484-1464</td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Mailing Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
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<tbody>
<tr>
<td>P.O. Box 1357</td>
<td>Harlingen</td>
<td>TX</td>
<td>78555</td>
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<table>
<thead>
<tr>
<th>Property Owner</th>
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<tr>
<td>SunValley Enterprises</td>
<td>990-484-1464</td>
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<table>
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<table>
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<tr>
<th>Mailing Address</th>
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<tbody>
<tr>
<td>1012 Teak Ave.</td>
<td>Harlingen</td>
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<td>78554</td>
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Select appropriate process for which approval is sought. Attach completed checklists with this application.

<table>
<thead>
<tr>
<th>Request Type</th>
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<tbody>
<tr>
<td>☐ Annexation Request</td>
<td>No Fee</td>
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<tr>
<td>☐ Administrative Appeal (ZBA)</td>
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<tr>
<td>☐ Comp. Plan Amendment Request</td>
<td>$250.00</td>
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<tr>
<td>☐ Re-zoning Request</td>
<td>$250.00</td>
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<tr>
<td>☐ SUP Request/Renewal</td>
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<tr>
<td>☐ Zoning Variance Request (ZBA)</td>
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<tr>
<td>☐ PDD Request</td>
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<tr>
<td>☐ Preliminary Plat. Changed</td>
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<tr>
<td>☐ Final Plat.</td>
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<tr>
<td>☐ Minor Plat.</td>
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<tr>
<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</td>
<td>$25.00 (each)</td>
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*CK# 11780*

Please provide a basic description of the proposed project: **Phase II = 24 Single Family Lots**

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 or false or approval may be revoked.

Applicant's Signature: [Signature]  
Date: 11-2-18

Property Owner(s) Signature: [Signature]  
Date: 

Accepted by: [Signature]  
Date: 

---

3
November 29, 2018

Planning & Zoning Department
502 E. Tyler Avenue
Harlingen, Texas 78550

Re: Amended Woodland Oaks Preliminary Variance Request

Dear Joel Olivo,

Woodland Oaks is requesting a variance be made to the requirement for construction of sidewalks on the Amended Preliminary Plat. Woodland Oaks Phase I was not required to construct sidewalks and when the existing streets of Phase I are extended through Phase II there will only be sidewalks in part of the Subdivision making the neighborhood look unfinished. Connections to any future sidewalks is not likely as there is a drain ditch that runs along the West side of the Subdivision and Stuart Place Country Club Golf Course is to the North and East. The adjoining streets, Queen Sago and Beckham Road are both rural sections with no current plans to upgrade. With that being said, all future Phases of this Subdivision will have sidewalks that lead nowhere.

Additionally, this is an Amended Preliminary Plat changing the design of the lots and streets only, the boundary of the subdivision remains the same, therefore, we feel that we should be able to move forward with the future Phases under the same rules that were applied on the original preliminary plat of this Subdivision.

Respectfully submitted,

[Signature]
Jack L. Brown, P.E.
Attachment II—Reduced Preliminary Plat

[Diagram of a plat map showing various lots and blocks.]
Variance Request Routing Slip

Applicant: Jack Brown, P.E. (Brown, Leal, & Associates)
Phone No.: (956) 428-4014
Location: Woodland Oaks Phase II (Queen Sago & Clear View Drive)
Project Description: Phase II Sidewalks

Department: Engineering Department

Approval: _____ YES  X NO

Comments:
The sidewalks for the residential lots for Phase II will be required at time of construction. The continuity of the sidewalks with Phase I will be taken care of by the City in the future. The sidewalks are to create walkable neighborhoods to promote a healthy lifestyle. The rural section roadways surrounding the subdivision can be expanded in the future to include sidewalk.

Signature

Date 12/5/18
PUBLIC HEARING AND TAKE ACTION TO CONSIDER AND TAKE ACTION ON A VARIANCE REQUEST WITH REGARDS TO THE SUBDIVISION NOTE REQUIREMENT FOR SIDEWALKS, BEARING A LEGAL DESCRIPTION OF A 38.673 ACRE TRACT OF LAND, MORE OR LESS, SAME BEING 21.217 ACRES OUT OF BLOCK 4, STUART PLACE SUBDIVISION AND 17.456 ACRES OUT OF STUART PLACE RESORT SECTION 1 & RESERVE, LOCATED ON THE NORTH SIDE OF QUEEN SAGO DRIVE, WEST OF KNOTTY PINE LANE. APPLICANT: JACK BROWN OF BROWN, LEAL & ASSOCIATES, C/O SUN VALLEY ENTERPRISE.

Mr. Molina summarized the following:

The City has a subdivision requirement to have a plat note stating that additional sidewalks shall be required at time of construction. The developer is not required to install the sidewalks prior to the approval of the subdivision. The variance request is simply for the plat note. The rule is fairly recent and when the Woodland Oaks preliminary plat was first approved in 2013, it was not required at that time; however the applicant is amending that preliminary plat. Whenever an amendment, replat or a new subdivision is submitted, current rules are applied. The variance request was reviewed by the Engineering Department and they have reported an objection to the variance request because the purpose of the sidewalks is to create walkable neighborhoods and to promote a healthy lifestyle. The sidewalks in the existing phase will be taken care of by the City in the future and there really isn’t any undue hardship that would prevent the applicant from putting the plat note on the subdivision. Staff recommends disapproval of the variance.

Chrm. Peacock asked if there were any questions for staff.

Cmr. Wolf asked how many phases of the development were previously approved without sidewalks.

Mr. Molina stated that it was one final plat that was approved. Originally the preliminary plat had a few phases but the first section was the only one completed without sidewalks.

Cmr. Wolf asked if every new subdivision that comes in would be required to have sidewalks.

Mr. Molina replied that each subdivision will be required to have the plat note stating that the sidewalk would be required at time of construction. The construction of the sidewalk is not required immediately upon approval of the subdivision plat, it is upon construction of each individual lot in the subdivision.

Cmr. Haire asked if that meant that the homeowner would construct the sidewalk.

Mr. Molina replied that was correct.

Jack Brown addressed the board and stated he did not believe that the ordinance required sidewalks. The ordinance he downloaded from the City website has an exception “...except if adjacent to subdivision on both sides of arterials and within the subdivision and collectors within or adjacent”. It says nothing about sidewalks within a subdivision and he could find nothing about sidewalks required at the time of construction. He stated that it did state that “...additional sidewalks installed as required by staff or within 1,000 feet of a school.” Both adjoining streets, Queen Sago and Beckham are rural.
streets without curb and gutter and there will be no sidewalk there until such time that it is curbed and guttered. The resubdivision is to create larger, nicer lots within the subdivision. There will be fewer lots, but increasing their size and the developer would like to proceed with his development as currently planned. If he is required to construct sidewalks, he may choose to pull the amended plat and go with his original plan which had been approved without the sidewalk note requirement.

Mr. Wolf asked staff for clarification of ordinance by staff.

Mr. Davila stated that he was conferring with the Engineer and he did not recall at that time if it is part of the subdivision ordinance.

Mr. Brown stated he believed it was an internal policy.

Mr. Lowry stated he did not feel it was unreasonable to have sidewalks for every new subdivision. He felt it added to the Healthy Harlingen Initiative, curb appeal and ADA compliance. He understands that the impression is that the developer would then decide to go with the original plat instead, but he didn’t feel intimidated by that.

Kemp Dubea, property owner, addressed the board and stated that a portion of the area does not have sidewalks currently and if the next phase does have sidewalks installed then he feels that property owners will start calling the City and complaining that they do not have sidewalks. He feels it would create more hassle for himself and probably the City as well. The only reason why there was a change from the original plat to what is being proposed now is that he is including 15 acres that were originally designated for commercial use and there will be no apartment complexes there because his desire is to have the whole thing be part of the subdivision and single family housing. He feels he would have to go back with his original plan and the new proposed plan would be a nicer subdivision. If anyone has visited the current developed portion, you can see what it looks like currently. The cost for sidewalks is not a factor, it is the overall looks of the subdivision that is a factor.

Cmr. Haire asked Mr. Brown if he did not believe that the ordinance applies, then why is he applying for a variance.

Mr. Brown stated that staff has told him that it applies and the only way to get a decision is to ask for a variance.

Cmr. Wolf said that his only comment is that it seems like it is somewhat secluded, with no pass-through streets where cars would be going significantly fast through the streets to where it would create a safety issue. He tends to agree, he would like to see sidewalks everywhere, that being said, he lives in a subdivision where there are no sidewalks and does not feel unsafe and it does not stop him from walking.

Cmr. Lowry stated that there are a lot of homes that will be built and if all subdivisions now require a sidewalk to be built upon construction, he does not see a reason why it has to be changed.

Cmr. Haire stated that he has been in the subdivision numerous times and it is a nice area, well kept properties. He believes in being fair. If everyone else is going to be required to have sidewalks, then this subdivision should be required to as well upon being re-platted. We can’t pick and choose where to approve this, there needs to be consistency. If someone else were to build a subdivision and not want a sidewalk, there might be a precedent set for other developers to not want to as well.
Chrm. Peacock stated that he tends to agree with Cmr. Haire in that unlike Item 4, this is not some area that does not have any development nearby. There is an initial development already that does not have it but there is quite a bit that is forthcoming and if they all have it then it will leave a relatively small number that do not have sidewalks.

Cmr. Wolf asked if there was a variance granted for the first phase that would set a precedence.

Chrm. Peacock asked if it was even city property at the time of the initial development.

Mr. Olivo replied that there was no variance the first time around, it was just not a requirement. This property was within city limits at the time it was initially developed.

Cmr. Lowry motioned to deny the variance request, Cmr. Martinez seconded the motion. Upon vote, Cmr. Haire and Cmr. Lowry opposed the motion. Chrm. Peacock cast the deciding vote to deny the variance. Motion was denied by a 3-2 vote.
### AGENDA ITEM

**EXECUTIVE SUMMARY**

**Meeting Date:** May 02, 2019

**Agenda Item:**
Consideration and possible action to approve a Memorandum of Understanding between the City of Harlingen and South Texas Amateur Repeater Society to provide support services to City of Harlingen during the activation of the Emergency Operation Center and authorize the City Manager to sign the Memorandum of Understanding in the event of customary modes of communication are compromised.

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

**Brief Summary:**
The purpose of this MOU is to establish the roles and responsibilities between the City of Harlingen and the South Texas Amateur Repeater Society (STARS) to support the EOC during activation of the Harlingen Emergency Operation Center in the event customary modes of communication are compromised.

**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 that the City of Harlingen approve the MOU between the City of Harlingen and ‘STARS’.

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

**Comments:**

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

form revised 01/26/09
MEMORANDUM OF UNDERSTANDING

Between the

City of Harlingen

And the South Texas Amateur Repeater Society

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish the roles and responsibilities among the City of Harlingen, by and through its Fire Department (sometimes "CITY") and the South Texas Amateur Repeater Society ("STARS"). This document will serve as a framework within which CITY and STARS (the "Parties") will implement emergency communications functions, in the event customary modes of communication are compromised.

II. Background

i. In accordance with federal law, Amateur Radio Service renders public service communications for the public, particularly in times of emergency when customary communications are unavailable. Using the amateur frequency bands, Amateur Radio operators have been serving the public, both directly and through governmental and relief agencies, for more than fifty years. As such, the American Radio Relay League (ARRL), the national association for radio amateurs, organized the Amateur Radio Emergency Service (ARES), of which STARS is a member.

ii. STARS is a volunteer organization made up of licensed amateurs who have ties with the City of Harlingen and the Rio Grande Valley. As an organization of Amateur Radio or "ham radio" operators, STARS members furnish their time and the use of their communications equipment solely as a public service. STARS members are available to furnish communications during public emergencies and disasters—including but not limited to hurricanes or other natural disasters, and provide necessary communications capabilities when other regular commercial communications systems are not available. STARS members have voluntarily registered their qualifications and equipment for communications duty in the public service in the event of an emergency. The STARS Director is responsible for coordinating the preparedness and response operations of the STARS organization.
ii. The Radio Amateur Civil Emergency Service (RACES) is an emergency service function defined under Part 97 of the Federal Communications Commission (FCC) Rules. RACES is a special phase of amateur radio operation that provides radio communications to local or state civil preparedness agencies during periods of local, regional, or national civil emergencies. All of the authorized frequencies and emissions allocated to the Amateur Radio Service are also available to RACES on a shared basis. In the event that the President of the United States invokes his or her War Emergency Powers, RACES operators, using specially authorized frequencies, would be the only Amateur Radio Operators permitted on the air. STARS members hold membership in RACES and are licensed RACES operators.

III. STARS Equipment

ii. STARS owns six VHF and three UHF online and available repeaters; a VHF digipeater on 145.010; and has access to the Internet Radio Linking Project (IRLP) and EchoLink. STARS provides all equipment and system maintenance, ensures accessibility of the system by the amateur radio community, and enters into system use agreements with emergency communications organizations.

IV. Parties’ Responsibilities

i. To provide for the best coordination and fullest communication among the Parties during disasters and emergencies, and to the extent permitted or mandated by law and regulation, CITY and STARS agree:

   a. Both CITY and STARS will identify an individual as the key contact to provide the necessary cooperation and information to during emergency communications planning and operation.

   b. CITY recognizes that the STARS repeater on 146.700 MHz has been designated by the state of Texas as the Valley-Wide Emergency Net. Therefore, STARS agrees to make its systems available to for use by CITY during times of emergency such as hurricanes, floods, fires, transportation accidents, hazardous material releases, civil unrest and other natural or manmade disasters.

   c. If such events occur, STARS would provide CITY with the following assistance:
1. Alerting and mobilizing STARS members in accordance with the STARS Emergency Plan;

2. Establishing one or more emergency nets using the repeater frequencies or other available systems as the situation warrants;

3. Establishing and maintaining fixed, mobile, and portable station emergency communication capabilities for local amateur radio coverage and point-to-point contact between City of Harlingen officials and remote locations at a point or points provided by CITY; and

4. Maintaining the continuity of communications for the duration of the emergency period or until normal communications channels are substantially restored.

d. STARS also agrees that its systems can be used in a similar fashion during training events.

e. CITY will provide STARS operational space and general support at a location available and suitable for emergency communication operations.

f. During an activation of emergency communications, STARS will conduct operations using the best practice standards and procedures.

ii. The points of contact between CITY and STARS are:

CITY: Roy Rubio, Fire Chief
City of Harlingen Fire Department
24200 N. FM 509
Harlingen, Texas 78550
Phone: (956) 230-8011
Fax: (956) 430-6672
E-mail: mrubio@myharlingen.us

STARS: Dr. David Woolweaver, Director
South Texas Amateur Repeater Society
Address
City, State, ZIP
Phone:
Fax:
E-mail:
This MOU shall take effect upon the last signature of the Party points of contact, below. This MOU may be amended by mutual agreement as documented in writing and signed by both Party points of contact. Either Party may terminate this MOU upon 30 days’ written notice.

____________________
Roy Rubio, Fire Chief
City of Harlingen Fire Department

Date: __________________________

____________________
Dr. David Woolweaver, Director
South Texas Amateur Repeater Society

Date: __________________________
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i. STARS is a volunteer organization made up of licensed amateurs who have ties with the City of Harlingen and the Rio Grande Valley. As an organization of Amateur Radio or "ham radio" operators, STARS members furnish their time and the use of their communications equipment solely as a public service. STARS members are available to furnish communications during public emergencies and disasters—including but not limited to hurricanes or other natural disasters, and provide necessary communications capabilities when other regular commercial communications systems are not available. STARS members have voluntarily registered their qualifications and equipment for communications duty in the public service in the event of an emergency. The STARS Director is responsible for coordinating the preparedness and response operations of the STARS organization.
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d. STARS also agrees that its systems can be used in a similar fashion during training events.

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f. During an activation of emergency communications, STARS will conduct operations using the best practice standards and procedures.

ii. The points of contact between CITY and STARS are:

CITY:    Roy Rubio, Fire Chief  
City of Harlingen Fire Department  
24200 N. FM 509  
Harlingen, Texas 78550  
Phone: (956) 230-8011  
Fax: (956) 430-6672  
E-mail: rubio@nvharlingen.us

STARS:    Dr. David Woolweaver, Director  
South Texas Amateur Repeater Society  
Address  
City, State, ZIP  
Phone:  
Fax:  
E-mail:
This MOU shall take effect upon the last signature of the Party points of contact, below. This MOU may be amended by mutual agreement as documented in writing and signed by both Party points of contact. Either Party may terminate this MOU upon 30 days’ written notice.

Roy Rubio, Fire Chief  
City of Harlingen Fire Department

Date:_________________________

Dr. David Woolweaver, Director  
South Texas Amateur Repeater Society

Date:_________________________
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: May 2, 2019

Agenda Item:

Consider and take action to approve contract with Stacey Lara to provide Learn to Swim instruction at Pendleton Park Pool.

Prepared By: Javier Mendez
Title: Director of Parks and Recreation
Signature: [Signature]

Brief Summary:

Summary
There has been a huge interest from the public in a learn to swim instruction class during the off season. Stacey Lara who served for the past few years as a pool manager and instructor for the city was asked by pool guests if she could provide instruction to their children. Mrs. Lara then approached the aquatic supervisor for permission to use the pool, so we extended her the opportunity to be a contractor.
The term of the contract will be for one year with an 80/20 percent revenue share with the City. The contractor has acquired proper insurance, which an approved copy of the certificate is on file. The registration and collection of fees is administered through our on-line registration program Active Net or through our administration office.
The schedule for the learn to swim classes will be two one hour sessions on Wednesday and Thursday at 7:00 pm. and at 8:00 pm and six one hour sessions on Saturday beginning at 7:00 a.m. through 12:00 p.m. These schedules do not interfere with any current programs at Pendleton Pool.
The Parks and Recreation Advisory Board on February 19, 2019 recommended approving the agreement with the terms being presented.

Staff Recommendation:

Staff recommends to the City Commission to approve the contract with Stacey Lara to provide Learn to swim instruction at Pendleton Park Pool.

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

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

form revised 04/29/09
CONTRACTUAL AGREEMENT

This contract, made this ___ day of May 2019 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 Stacey Lara, hereinafter referred to as “CONTRACTOR”, an individual(s) residing at 1746 Christian 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

Stacey Lara will serve as CONTRACTOR for Learn to Swim Instruction for the guests from Pendleton Pool. Learn to Swim will be conducted at the City owned pool known as Pendleton Pool. CONTRACTOR shall be responsible for providing supplies, materials or equipment needed to instruct learn to swim classes. 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. CITY will provide the following pool schedule for CONTRACTOR: Wednesday, and Thursday with two one hour sessions at 7:00 p.m. and 8:00 p.m., then six one hour sessions on Saturdays at 7:00 a.m., 8:00 a.m., 9:00 a.m., 10:00 a.m., 11:00 a.m. and at 12:00 p.m. 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 _____ day of May 2019, and end on the ___ day of April, 2020.

III. COMPENSATION

CITY, through the Harlingen Parks and Recreation Department, shall compensate CONTRACTOR an amount totaling Eighty Percent (80%) of the monthly learn to swim class registration fee. The CONTRACTOR shall receive payment from funds collected and upon the completion of the class in accordance with the concurrent payroll dates. The established fee for a learn to swim class is Fifty Dollars ($50.00) per month per individual. Participants of the program are required to register using our on line registration application or can register in person at the Parks and Recreation Administration office. The term of a class in this agreement shall be a period of 30 days. It is specifically understood and agreed that the CITY will not withhold any monies for purposes of
taxes. Any Federal Income tax obligation shall be paid by CONTRACTOR as a self-employed
person.

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: Stacey Lara  
1746 Christian Circle  
Harlingen, Texas 78550

TO CITY: Dan Serna, City Manager  
City of Harlingen  
118 E. Tylcr  
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________, 2019

CITY OF HARLINGEN

BY: _____________________________________________
    Dan Serna, City Manager

ATTEST:

BY: _____________________________________________
    Amanda C. Elizondo, City Secretary

CONTRACTOR

BY: _____________________________________________
    Stacey Lara, Making Waves
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: May 2, 2019

Agenda Item:
Consider and take action to approve an Inter-local Agreement between the City of Harlingen and the Harlingen Consolidated Independent School District for the use of two school buses during the Parks and Recreation’s 2019 Summer Recreation and Track Program and authorize City Manager to sign the agreement

Prepared By: Javier Mendez
Title: Director of Parks and Recreation
Signature:

Brief Summary:
Summary
For years, the City has made arrangements with the HCISD for the use of two school buses to help with transportation of the kids to and from our Summer Recreation and Track Programs. As part of the agreement, the City will insure the buses and the driver who is a seasonal city employee, would maintain the buses while they are in our custody, and we would compensate the district for the use of the bus each day it is used. Attached is the agreement that staff is recommending to be approved by the City Commission. The busses will be used from May 30th through July 19th. The bus charges and driver have been budgeted for this year.

Funding (if applicable):
Are funds specifically designated in the current budget for the full amount for this purpose?  
X Yes  No N/A

Finance Director’s approval:  
Yes  No  N/A

Staff Recommendation:
Staff recommends the City Commission approve the inter-local.

City Manager’s approval:  
Yes  No

Comments:

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

except for 47 regarding indemnity A3

4/26/19
THE STATE OF TEXAS
COUNTY OF CAMERON

INTER-LOCAL AGREEMENT BETWEEN THE CITY OF HARLINGEN
AND THE HARLINGEN CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

This Agreement ("Agreement") is by and between the CITY OF HARLINGEN, a Home Rule 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 the HARLINGEN CONSOLIDATED INDEPENDENT SCHOOL DISTRICT, hereinafter designated as "DISTRICT".

WHEREAS, Texas Government Code, Chapter 791, also known as the Inter-local Cooperation Act, authorizes local governments to contract with each other and with agencies of the state, to perform functions or services each party to the contract is authorized to perform individually;

PURPOSE

This Agreement is to provide school buses to the CITY for use during the 2019 School Summer Break for implementation of a "City Summer Recreation and Track Program”.

DESCRIPTION OF BUSES

The buses to be provided to and used by CITY are described as follows:

One Harlingen School bus described as No. 141 (Bus 1), a 2017 International, 71-passenger School bus bearing ID #4DRBUC8N6HB464971, and

One Harlingen School bus described as No. 116 (Bus 2), a 2010 International, 71-passenger School bus bearing ID #4DRBUAAN9BB368494;
TERM
The term of this Contract is for Fifty One (51) days starting May 30, 2019 through July 19, 2019.

CONSIDERATION
The DISTRICT shall provide Bus No. 141 Bus and No. 116 for the CITY to use Thursday, May 30th through Friday, July 19, 2019 from 9:00 a.m. to 5:00 p.m. The parties agree that one bus will be picked up on May 30, 2019 and will store on City property in a secure area located at 1006 South Commerce. The bus will be stored at this location for the duration of City summer programs. CITY will return bus back to School of Transportation no later than the end of the Friday, July 19, 2019.

DRIVERS
CITY shall employ bus drivers for the operation of the 2019 Summer Recreation and Truck Program. CITY employed bus drivers shall be preapproved by the DISTRICT prior to May 14, 2019 in order to be authorized to operate said school buses. No other person shall operate such school buses. All compensation for drivers shall be provided by CITY. Drivers shall not be considered an employee of the DISTRICT during such time as they are working for CITY under this Agreement.

COMPENSATION AND MAINTENANCE
Upon delivery of the buses to CITY, CITY shall inspect such buses, and report any existing damages, maintenance or repair deemed necessary before receiving. During the time such buses are utilized by CITY during the term of the Agreement, such buses shall be maintained and repaired at the expense of CITY. During the term of this Agreement, City shall provide all gasoline, oil and other lubricants, and any replacement parts necessary to maintain such buses. The buses shall be delivered back to DISTRICT in the same condition
as when delivered to CITY by DISTRICT, subject only to normal and reasonable wear and tear. CITY will also notify DISTRICT of replacement parts installed on the vehicles and the mileage of the vehicle if and when the oil is changed, or the vehicle is lubricated. Upon receiving buses from DISTRICT, CITY and DISTRICT shall note the current odometer reading of such buses and again upon delivery from the CITY to the DISTRICT. During the time that buses are in the custody of CITY, the speedometer and odometers shall be maintained in a working condition at all times.

CITY shall pay DISTRICT $19.13 per bus, per day that the buses are used by the City. CITY shall render payment to DISTRICT upon receiving bill from DISTRICT at end of this Agreement. Officials of DISTRICT shall have the authority to enter upon said buses and note from time to time the condition of the buses to facilitate preparing such bills for CITY. Pursuant to Section 791.011 of the Texas Government Code, the City of Harlingen will make payment for the use of the buses from current revenues available to the City of Harlingen.

The daily compensation is intended to reimburse DISTRICT for ordinary and reasonable wear and tear on the vehicle being utilized by CITY, and does not include any type of profits, pecuniary advantage, or other gain in favor of the DISTRICT.

**INSURANCE**

As a part of the consideration for this Agreement, CITY shall obtain and maintain an insurance policy covering use of the school buses for a term not less than the term of this Agreement. Said insurance policy shall provide coverage for the vehicles as hereinafter set forth:

One Harlingen School bus described as № 141 (Bus 1), a 2017 International, 71-passenger School bus bearing ID #4DRBUC8N6HB464971, and
One Harlingen School bus described as No. 116 (Bus 2), a 2010 Longhorn, 71-passenger School bus bearing ID #4DRBUAAN9BB368404;

**INDEMNITY**

CITY, to the extent allowed by law, shall indemnify and save harmless DISTRICT and its officers, agents, employees or Board of Trustees from all suits, actions, losses, damages, claims, or liability of any character, type or description, including, without limiting the generality of the foregoing, all expenses of litigation, court costs, and attorney’s fees for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, the operation or use of the buses by CITY or any of its agents or employees, including the drivers, in the execution or performance of the Agreement.

CITY further agrees to defend, at its own expense, and on behalf of DISTRICT and in the name of DISTRICT, any claim or litigation brought in connection with any such injury, death or damage.

This indemnity and hold harmless agreement shall survive the expiration date of this Agreement and shall remain in full force and effect until the statute of limitations expires on any cause of action occurring during the period of this Contract.

**IMMUNITIES**

The parties hereto desire to preserve all immunities granted to the parties by the Constitution and Statutes of the State of Texas. Any provisions of this Agreement deemed to invalidate or diminish such immunities is hereby agreed between the parties to be null and void.

Each party acknowledges that it has read, understands, and intends to be bound by the terms and conditions of this Agreement.
District and City, through their dully appointed agents, have executed this agreement in duplicate originals.

City of Harlingen on the ________ day of May, 2019.

ATTEST:__________________________

Dan Serna, City Manager

__________
Amanda Elizondo, City Secretary

Harlingen Consolidated Independent School District on the ________ day of ________, 2019.

__________
Superintendent of Schools

ATTEST:__________________________

Dr. Art Cavazos,

__________
Secretary, Board of Trustees
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: May 2, 2019

**Agenda Item:**
Consider and take action to approve a Facility Use Agreement between the City of Harlingen and Rio Grande Valley Football Club Toros for the use of the Harlingen Soccer Complex.

**Prepared By:** Javier Mendez  
**Title:** Director of Parks and Recreation  
**Signature:**

**Summary:**
The Rio Grande Valley FC Toros is an American professional soccer team based in Edinburg, Texas operated by Lone Star, LLC. They joined the USL Championship in the 2016 season. Lone Star has the same ownership team as the Rio Grande Valley Vipers. The team serves as a hybrid affiliate of the Houston Dynamo of Major League Soccer. The league is requesting the use of two fields at the Harlingen Soccer Complex in an attempt to expand their Youth Academy that currently operates out of their Edinburg location. The request includes using field number 2 Tuesday, Wednesday and Thursdays from 6:00 pm to 9:00 pm for practice and clinics, and the reservation of Fields 1 & 2 for periodic tournament play. The league is an established non for profit (501c3), so we have recommended using the Facility Use Agreement for the contract terms. The league has agreed that during their tournaments, the gate admission would be free to the public. We have also agreed to allow the league to run their independent concession separate from the Arroyo Soccer League. The Parks and Recreation Advisory Board recommended approval at their February 19\textsuperscript{th} regular meeting.

**Staff Recommendation:**
Staff and the Parks and Recreation Advisory Board recommend approval of the Facility Use Agreement as presented.

<table>
<thead>
<tr>
<th>City Manager’s approval:</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
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**Comments:**

<table>
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<tr>
<th>City Attorney’s approval:</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
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form revised 04/29/09
STATE OF TEXAS
COUNTY OF CAMERON

FACILITY USAGE AGREEMENT FOR
YOUTH SPORTS PROGRAMS

I. WITNESS this Facility Usage Agreement hereby entered into this 2nd day of May, 2019, by and between the CITY OF HARLINGEN, a Municipal Corporation situated in Cameron County, Texas, and acting herein by and through its duly authorized City Manager and its City Secretary, hereinafter designated as CITY, and
Rio Grande Valley Football Club Toros.
hereinafter designated as CLUB/LEAGUE/TEAM.

The CITY hereby grants usage to CLUB/LEAGUE/TEAM for play thereon at the following described facility, all located in Harlingen, Texas.

Soccer Field #2 (Championship Field),
At Harlingen Soccer Complex

II. The term of the Agreement is as follows: Start May 2, 2019 ending April 30, 2020.

III. The consideration to be paid CITY for this Usage Agreement is One ($1.00) Dollar. Said sum shall be payable to the CITY at the office of the Parks and Recreation Director of said CITY at 502 E. Tyler, Harlingen, Texas, 78550, (956) 216-5952 phone #, (956) 216-8035 fax #, at the time of the execution of this Agreement.

IV. By virtue of this Agreement, CLUB/LEAGUE/TEAM is to have use of said facility for the term subject to the following terms and conditions:

A. The Parks and Recreation Director will assign those facilities and fields described in Article I as deemed appropriate in his/her sole discretion considering all relevant factors. Use of the facility shall be limited to the dates and hours of scheduled CLUB/LEAGUE/TEAM activities as filed with and subject to approval by the Parks and Recreation Director.
B. The basic use of said facility by **CLUB/LEAGUE/TEAM** shall be for the purpose of promoting, training, practice and tournament play and the operation of the concessions incidental to such activities.

C. **CLUB/LEAGUE/TEAM** will not use the facility for any activities other than the basic use described above and related scheduled **CLUB/LEAGUE/TEAM** activities without prior consent of the Parks and Recreation Director.

D. The **CLUB/LEAGUE/TEAM** will not use the facility for any unlawful purposes. **CLUB/LEAGUE/TEAM** agrees to comply with all CITY ordinances and regulations and the laws of the State of Texas.

E. Concession operations must meet all applicable CITY health codes and any other requirements of the CITY in this regard including, but not limited to:
   1. Alcoholic beverages in all Municipal Parks are prohibited.
   2. Sale of any items in glass containers is prohibited.
   3. The **CLUB/LEAGUE/TEAM** will not use the concession stand facility.

F. **CLUB/LEAGUE** shall discourage unsafe practices. **CLUB/LEAGUE** is prohibited from offering any reward, discount or free concession food or beverage items in exchange for the return of lost balls—when applicable.

G. It is further covenanted and agreed that no concession on said facility will be granted by **CLUB/LEAGUE** to any person(s), corporation or other entity without prior written approval of the Parks and Recreation Director.

H. CITY shall have the right to make the facility available, subject to the approved **CLUB/LEAGUE/TEAM** schedule (inclusive of any rainout or other rescheduled dates), to any CITY, school, civic group, or association which desires the use of said facility for any event or program for CITY, non-profit, and/or charitable purposes; provided that any such use shall not conflict with a previously scheduled game or other
permitted event or program. Use of a facility for above mentioned uses shall be subject to CITY policies regarding such activities and to prior approval by Parks and Recreation Director.

I. Prior to the execution of this Agreement, CITY and CLUB/LEAGUE/TEAM may inspect the facility and prepare a list of necessary repairs, if any, attached to a statement of general conditions of the facility.

J. CITY shall have the right to take over/use any of these facilities in the event of public necessity, declared emergency or other public need.

K. CLUB/LEAGUE/TEAM shall bear all costs incidental to operation of said CLUB/LEAGUE/TEAM hereunder except as noted below:

1. CITY shall maintain grass facility areas by providing watering, fertilizing, and mowing. Said service shall be provided only on normal work days and during normal work hours. CLUB/LEAGUE/TEAM shall mark fields. Exceptions to the provisions in this paragraph "1." shall be for CLUB/LEAGUE/TEAM sponsored regional and/or national tournaments as deemed appropriate by the Parks and Recreation Director. Said tournaments shall be of a nature that has both an economic and tourism impact on the City.

2. Where installed, CITY agrees to provide utilities (except as noted in #3 below); maintain goals, lights, fence and bleachers.

3. CLUB/LEAGUE/TEAM shall maintain, at CLUB’S/LEAGUE’S/TEAM’S expense, any scoreboard, if present, its attendant cables, controls, etc. and CLUB/LEAGUE/TEAM shall own and maintain, at its expense, any public address system used.

4. CLUB/LEAGUE/TEAM shall provide at own expense (when applicable), lifeguards, umpires, officials, scoreboard operators, guards, attendants, bases and soccer goals.
5. CLUB/LEAGUE/TEAM is responsible for picking-up any and all trash generated or created by any aspect of the CLUB’S/LEAGUE’S/TEAM’S operation and use of CITY facilities, including, but not limited to, attendance at CLUB/LEAGUE/TEAM events and concession sales.

6. CLUB/LEAGUE/TEAM is responsible for cleaning and minor plumbing issues (i.e. clogs in sinks, urinals, or toilets) at facility restrooms and concessions before, during and after league practices, games, tournaments and any other club associated events. CLUB/LEAGUE/TEAM shall provide restroom cleaning supplies paper products, and hand soap for dispensers. Exceptions to the above provision in this paragraph “6.” shall be during the periodic times when the complex is not in regular use by CLUB/LEAGUE/TEAM or during City sponsored events; such periods City shall clean and maintain restrooms and provide paper products and soap.

7. In the event of storms, hurricanes, high winds, or any other act of God, CLUB/LEAGUE/TEAM is responsible for the removal of all their signage and sponsor boards from fences at their designated areas of play or operation.

8. CLUB/LEAGUE/TEAM shall allow other CLUB/LEAGUE/TEAM to have home games at the Harlingen Soccer Complex on Saturdays or Sundays only on fields and at time slots that are not being used by the Arroyo Youth Soccer Club as approved by the CITY.

9. CLUB/LEAGUE/TEAM shall allow other CLUB/LEAGUE/TEAM to have camps and/or tournaments during the summer or Season only on fields and time slots that are not being used by the Arroyo Youth Soccer Club, & Harlingen’s Women Soccer League as approved by the CITY.

L. Under the terms of this Facility Usage Agreement, the LEAGUE, including any team associated with the League, is prohibited from using any of the field lights for practice without first obtaining written permission from the Parks and
Recreation Director. Use of the field lights for practice will be limited to only four days (Monday - Thursday) per week from sundown to 9:00 p.m. Lights used during practice must be turned off no later than 9:00 p.m. Lights will only be used for two teams or more per field. Failure to comply with this provision of the Agreement will result in either the League being charged for electrical use for the month in which the infraction occurred or forfeiture of the Agreement and the Leagues ability to use the Facilities. These conditions do not pertain to tournament play. Tournament play dates must be provided to the Parks and Recreation Director at least two weeks before the tournament is scheduled to commence.

M. If entry fees (gate) are to be charged to those attending league events at the Facility, including tournaments, such fees shall not exceed the following amounts:
   a. Participants in that day’s league activities (players, cheerleaders, etc) shall be charged no fee;
   b. Persons eleven (11) years of age and younger shall be charged no more than one dollar ($1.00) per day;
   c. Persons twelve (12) years of age and older shall be charged no more than two dollars ($2.00) per day.

V. No later than five (5) working days prior to the Start Date of the Agreement, CLUB/LEAGUE/TEAM shall file with the CITY a schedule showing the dates and times that the facility will be used for practices, regularly scheduled games or races, ceremonies, or other activities for the first three months of the year. Schedule updates will be submitted every ninety (90) days thereafter. The schedule and any updates shall be subject to review as per Section IV.A. of this agreement. Additionally, CLUB/LEAGUE/TEAM shall file with the CITY a roster or list of registrants, including names and home addresses. CLUB/LEAGUE/TEAM shall, as soon as practical, notify CITY of any race or practice rescheduling and dates for major races or practices on said premises.

VI. A. Any additions and alterations of the facility, including the placement of portable or temporary buildings, shelters or
bathrooms, desired by CLUB/LEAGUE/TEAM shall be first submitted to the CITY COMMISSION for its approval or rejection. In the event such alterations/additions are approved and made, the same shall be at the full expense of CLUB/LEAGUE/TEAM and shall become the property of CITY upon the termination of this Agreement.

B. CITY reserves the rights to all advertising, signs and signage on and sponsorships of all fields, facilities, premises and appurtenances. No sale, lease or donation of advertising, sign, signage or sponsorship by the CLUB/LEAGUE/TEAM shall be permitted, valid or binding without the express written permission or consent of the CITY'S Elective Commission, which may be withheld at its sole discretion.

C. Nothing herein shall prevent CITY from making improvements to a facility at CITY'S expense, if CITY shall see fit to do so.

D. Any officer, agent or employee of CITY shall have free access to the facility at all times for the purpose of checking and inspecting or for maintenance and repairs. CITY shall have access to any storage buildings when accompanied by an official of the CLUB/LEAGUE/TEAM, other than in response to an immediate threat to public health, safety or welfare, in which case no CLUB/LEAGUE/TEAM official's presence is required.

VII.A. CLUB/LEAGUE/TEAM shall carry valid and collectible Commercial General Liability (CGL) insurance, naming the CITY OF HARLINGEN as an additional insured, for not less than Two Million ($2,000,000.00) Dollars aggregate and One Million ($1,000,000.00) each occurrence for bodily injury or death and Five Hundred Thousand and No/100 ($500,000.00) Dollars each occurrence for property damage. Such insurance policy shall provide that the same cannot be canceled unless thirty (30) days written notice of such cancellation has been given to CITY. If such policy is canceled or expires during the term of this Agreement, CLUB/LEAGUE/TEAM shall forthwith discontinue the use of said facility unless and until a policy
in the amounts hereinabove provided is obtained and presented to the Parks and Recreation Director of the City of Harlingen, Texas. A copy of said insurance policy shall be submitted to the Risk Manager of Harlingen for review prior to the execution of this Agreement by CITY.

B. As a part of the consideration for the execution of this Agreement, CLUB/LEAGUE/TEAM agrees to and shall, to the extent of the insurance available to the CLUB/LEAGUE/TEAM and CITY under the insurance policy furnished by CLUB/LEAGUE/TEAM to CITY, indemnify and hold harmless CITY, its officials, officers, agents, representatives and employees, from and against all claims, losses, damages, causes of action, suits and liabilities of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in any way connected with work done, improvements made, or activities conducted by the CLUB/LEAGUE/TEAM under this Agreement, including any situation in which such injuries, death, or damages are caused by CITY'S sole negligence or the joint negligence of CITY and any other person or entity, including CLUB/LEAGUE/TEAM. It is the expressed intention of the parties hereto, both CLUB/LEAGUE/TEAM and CITY, that the indemnity provided for in this paragraph is indemnity by CLUB/LEAGUE/TEAM to indemnify and protect CITY from the consequences of CITY'S own negligence whether that negligence is a sole or a concurring cause of the injury, death or damage. CLUB/LEAGUE/TEAM further agrees to handle and defend at its own expense, on behalf of CITY and in CITY'S name, any claim or litigation in connection with any such injury, death or damage and the liability of the CLUB/LEAGUE/TEAM under such indemnity shall be limited to the coverage available to the CLUB/LEAGUE/TEAM and to CITY under the policy furnished by CLUB/LEAGUE/TEAM to CITY.
VIII. In case of default of any of the covenants herein, CITY may enforce the performance of this Agreement in any manner provided by law, and this lease may be voided at CITY'S discretion if such default continues for a period of ten (10) days after the CITY notifies CLUB/LEAGUE/TEAM of such default and its intention to declare the Agreement forfeited. Such notice shall be sent by fax or (if available) by certified mail, return receipt requested, addressed to the last known fax or address of CLUB/LEAGUE/TEAM, with the fax and address for all purposes herein stated below:

1616 South Raul Longoria Rd, Edinburg, Texas 78542

Unless CLUB/LEAGUE/TEAM shall have completely removed or cured said default, this Agreement shall automatically cease and come to an end, without the necessity of further notice from the CITY as if that were the day originally fixed for the expiration of the term thereof or any renewals or extensions hereof and CITY'S agents or attorney shall have the power without further notice and demand to re-enter and remove all persons and their property therefrom without prejudice to any remedies for breach of covenant. Upon such breach by CLUB/LEAGUE/TEAM, CITY shall be under no obligation to refund any prepaid fees paid under the term of this Agreement and CITY, upon breach by CLUB/LEAGUE/TEAM, shall have no obligation to release such property to mitigate damage to CLUB/LEAGUE/TEAM due to its breach of contract.

IX. CITY shall maintain all fire and extended coverage insurance on said facility. In the event any portion or all of said facility shall be destroyed or damaged by the elements or other act of God or fire not resulting from gross negligence or willful misconduct of CLUB/LEAGUE/TEAM, said destruction from said cause shall render the facility unfit for use by CLUB/LEAGUE/TEAM during the term of this Agreement, the Agreement shall automatically terminate.

X. CLUB/LEAGUE/TEAM shall annually furnish to City:
   A. A copy of its tax-exempt, non-profit status under Section 501(c) of the United States Internal Revenue Code; and
   B. A copy of its Certificate of Incorporation; and
C. A copy of its by-laws; and
D. A list of current Board Members and Officers with email addresses, fax numbers, addresses and phone numbers; and
E. A copy of its audited accountants compilation report at the end of the play season; and
F. A copy of its current IRS Form 990; and
G. Minutes of all board meetings.

XI. This Agreement shall not be assignable without the express written consent of CITY. The parties both agree that Cameron County, Texas shall be the proper place to maintain any litigation between the parties hereto and that Texas law shall govern the interpretation of the provisions hereof.

XII. This Agreement shall be binding upon the heirs, successors, administrators, executors and assigns of the parties hereto.

WITNESS OUR HAND THIS _____ DAY OF ____________, 2019.

CITY OF HARLINGEN

BY: _____________________________

Dan Serna, City Manager

ATTEST:

BY: _____________________________

Amanda Elizondo, City Secretary

RGV FC Toros:

BY: _____________________________

LEAGUE REPRESENTATIVE