Notice is hereby given that the above governmental body will hold a Special Meeting on Tuesday, October 22nd, 2019 at 5:30 P.M. at 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) 216-5001 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.

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

Invocation/City Commissioner Frank Puente

Pledge of Allegiance/Welcome

Called Meeting to Order

Citizen Communication / Input

1) Proclamation – proclaiming September 27th, 2019 as PEPE’s Restaurant 25th Anniversary.

2) Presentation by Rodrigo Davila, Public Works Director, regarding the duties and functions of the Public Works Department. (Public Works)

3) Approval of Minutes
   a) Regular Meeting of September 4, 2019
   b) Special Meeting of September 17, 2019

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 Items withdrawn from the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 and adopt an ordinance for a Specific Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 216 N. Ed Carey Drive, Suite 6, bearing a legal description of 1.583 acres out of Vector Subdivision Unit 1. Applicant: Eyal Turgeman. Attachment (Planning & Zoning)

b) Second and final reading to approve an ordinance to rezone from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for 0.891 of an acre out of Block 21, Howard Dixieland Heights Subdivision, located at 1401 Dixieland Road. Applicant: Ricardo Caballero. Attachment (Planning & Zoning)

c) Second and final reading to approve and adopt an ordinance to abandon and vacate a portion of a 1.0-foot non-access easement described 0.0006 acre of land (27 square feet) out of Lot 5, Arbor Health Subdivision, located at 1801 Atrium Place. Applicant: Jeff Bell. Attachment (Planning & Zoning)

d) Second and final reading to approve and adopt an ordinance to abandon and vacate a 1.0-foot non-access easement being 360 square feet out of the south side of Lot 5, Block 1, Harlingen Heights II Subdivision, located at 2410 Spur 54. Applicant: Ezequiel Reyna, Jr. Attachment (Planning & Zoning)

e) Second and final reading to approve and adopt an ordinance to replace a yield sign with a stop sign at the intersection of Vermont Drive and 77 Sunshine Strip. Attachment (Engineering)

f) Second and final reading to approve an ordinance adopting a Drought Contingency and Emergency Management Plan. Attachment (HWWS)

g) Consideration and possible action to approve a request from Dora Castaneda to close the following streets north and south to hold the Small Business Market Place Event, Saturday, November 30, 2019 from 5 to 10 p.m. Attachment (Police Dept.)

• Van Buren Avenue at West Street;
• West Street at Van Buren Avenue;
• Van Buren Avenue at "C" Street; and
• Van Buren Avenue at "D" Street

h) Consideration and possible action to approve a Food for Fines Drive at the Harlingen Public Library. Attachment (Library)

5) Presentation of the City of Harlingen’s efforts to pursue the 2020 All-American City Award. Attachment (Special Projects Director)
6) Consideration and possible action to authorize the Mayor to execute the Government Lease No. 697DCM-19-L-00206 Airport Surveillance Radar (ASR) Site and Easements between the Federal Aviation Administration (FAA) and City of Harlingen granting the FAA use of land rights at no-cost for a 15-year term. Attachment (Airport)

7) Public hearing to consider an ordinance on first reading for a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft. in a Single Family Residential (R1) District for Lot 11 Block 153, Harlingen Original Townsite Subdivision located at 218 W. Lincoln Ave. Applicant: Magdalena & Jesus Peralta. Attachment (Planning & Zoning)

a) Public Hearing

b) Consideration and possible action to approve an ordinance on first reading for a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft. in a Single Family Residential (R1) District at the above describe property.

8) Public hearing to consider an ordinance on first reading for a Specific Use Permit (SUP) to allow expansion of an existing Childcare Business by the name of Martha’s Playground to adjacent property located within a Light Industry (LI) District for Lot 1, Block 1, Safeguard Subdivision and 1.58 acres out of the east 10 acres of Block 4, Highway Subdivision located at 5206-5402 S. Expressway 83. Applicant: Roger Gonzalez. Attachment (Planning & Zoning)

a) Public Hearing

b) Consideration and possible action to approve an ordinance on first reading for a Specific Use Permit (SUP) to allow expansion of an existing Childcare Business by the name of Martha’s Playground at the above describe property.

9) Public hearing to consider an ordinance on first reading for a Specific Use Permit (SUP) to allow a Bar/Lounge in a General Retail (GR) District for Lot 4, Block 1, South Point Subdivision located at 640 N. Ed Carey Drive. Applicant: Kamlesh Bhakta. Attachment (Planning & Zoning)

a) Public Hearing

b) Consideration and possible action to approve an ordinance on first reading for a Specific Use Permit (SUP) to allow a Bar/Lounge in a General Retail (GR) District at the above describe property. Attachment (Planning & Zoning)

10) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for 8.99 acres of land consisting of 0.50 acres out of Block 41, and 8.49 acres out of Block 42, Howard Dixieland Heights Subdivision. Applicant: Christopher S. Dowling, c/o Marine Military Academy. Attachment (Planning & Zoning)

a) Public Hearing
b) Consideration and possible action to approve an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for the above describe property.

11) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 3, Sun Valley Shopping Center Unit No. 2, save and except 30 feet x 58.33 feet, located on the west side of 11th Street north of Washington Avenue. Applicant: John Timms. Attachment (Planning & Zoning)

a) Public Hearing

b) Consideration and possible action to approve an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 3, Sun Valley Shopping Center Unit No. 2, for the above describe property.

12) Public hearing to consider an ordinance on first reading to rezone from Residential, Single Family ("R-1") District to General Retail ("GR") District for Lot 9 and the west 23.78 ft. of Lot 10, Block 6, Crown Heights Addition located at 918 E. Grimes Avenue. Applicant: Aaron Medina. Attachment (Planning & Zoning)

a) Public Hearing

b) Consideration and possible action to approve an ordinance on first reading to rezone from Residential, Single Family (R1) District to General Retail (GR) District for the above describe property.

13) Consideration and possible action to approve and adopt an ordinance on first reading to regulate and reduce pollution that enters the surface water of the State of Texas and waters of the United States from discharges into the City’s municipal separate storm sewer system, by providing for the detection and elimination of illicit connections to the storm sewer system and requiring erosion control and pollution prevention at construction sites and to establish penalties and an effective date. Applicant: City of Harlingen. Attachment (Planning & Zoning)

14) Consideration and possible action to authorize the Mayor, on behalf of the City of Harlingen, to accept and expend grant funding in the amount of $3,471.95 made available through the Bureau of Justice Assistance (BJA) under the (FY) 2019 Bulletproof Vest Partnership (BVP) Program. Attachment (Police Dept.)

15) Consideration and possible action to authorize the Mayor, on behalf of the City of Harlingen, to accept and expend grant funding in the amount of $31,122.00 made available through the Office of the Governor Homeland Security Grant Program (HSPG) under the SHSP LETPA Solicitation – FY19. Attachment (Police Dept.)

16) Consideration and possible action to authorize the Mayor, on behalf of the City of Harlingen, to accept grant funding in the amount of $83,537.20 made available through the Office of the Governor, VA – Victims of Crime Act Formula Grant Program (VA19 PY20 General Direct Services) for the HPD Crime Victim Liaison Program. Attachment (Police Dept.)
17) Consideration and possible action to approve a request from Robert Villanueva Garcia, Deacon Evangelist of Iglesia La Luz del Mundo (The Light of the World) to close Jackson St. and Van Buren Street, Friday, November 1st, Saturday, November 2nd, and Sunday, November 3rd, 2019 starting at 10 am to 3 pm for their church festival. Attachment (Police Dept.)

18) Consideration and possible action to approve the Fire Protection Service Contract between the City of Harlingen and the City of Combes, Texas to provide fire protection services for a cost of $95,726.34 payable in quarterly installments of $23,931.59 and authorize the Mayor to sign the contract. Attachment (Fire Dept.)

19) Consideration and possible action to approve an ordinance on first reading to permanently close L & L 1/2 Street between Fair Park Boulevard and Adams Avenue for the construction of the Destination Park Project. Attachment (Engineering)

20) Consideration and possible action to renew the facility usage agreement with Arroyo Youth Soccer Club, Inc. for the use of the Soccer Fields 5, 6, 8, 9, and 10 at the Harlingen Soccer Complex and the Concession Stand and authorize the City Manager to execute the agreement. Attachment (Parks & Recreation)

21) 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 (1 - vacancy) (all other terms expire annually in June, 2019)
d. Civil Service Commission (1)
e. Community Development Advisory Board (2)
f. Construction Board of Adjustments (6)
g. Convention & Visitors Bureau (3)
h. Development Corporation of Harlingen, Inc.
i. Downtown Improvement District Board (1)
j. Golf Course Advisory Board
k. Harlingen Community Improvement Board (2)
l. Harlingen Housing Authority Board (2)
m. Harlingen Finance Corporation (4)
n. Keep Harlingen Beautiful Board (5)
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 (3)
u. Tax Increment Finance Board (7)
v. Utility Board of Trustees
w. Veterans Advisory Board (1)
x. Zoning Board of Adjustments (6)
y. Complete Census Committee
Specifically, appointment or discussion and possible action to include appointment bylaws and/or removal of any position subject to appointment or removal by statute, ordinance or bylaws.

Adjournment

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, October 18th, 2019 at 4:00 p.m. at least 72 hours preceding the scheduled time of said meeting.

Dated this 18th day of October, 2019

[Signature]

Amanda C. Elizondo, City Secretary
WHEREAS, the year 2019 marks the 25th Anniversary of Pepe’s Restaurant located at 117 South Sunshine Strip in Harlingen, Texas; and

WHEREAS, Joe Ayala, Owner of Pepe’s Restaurant and former Texas Softball Hall of Famer, born in Brownsville, Texas in 1949 and is a graduate of Brownsville High School;

WHEREAS, in 1984 he moved to Harlingen, Texas and managed a restaurant for 10 years before opening Pepe’s Restaurant in 1994; and

WHEREAS, Mr. Ayala is very familiar with the word teamwork and strives to continue the spirit of teamwork by bringing excellent staff to his restaurant; and

WHEREAS, Mr. Ayala’s dedication to consistently high quality service is mirrored through the work of his staff by providing excellent customer services;

WHEREAS, the good quality of the food, the friendly service of the cooks and wait staff, and his commitment to the restaurant business is the key to success; and

WHEREAS, in 1996 Pepe’s Restaurant was selected as one of the top 50 Mexican Restaurants in the Nation by the Hispanic Magazine; appeared in the Texas Monthly Magazine and has drawn celebrities such as Caroline Kennedy and John Quinones; and

WHEREAS, Mr. Ayala loves to help the community by sponsoring posters of youth that play football, basketball and other sports, many of whom are his customers; they come from San Benito, Los Fresnos, Mercedes, Weslaco, Lyford, and Raymondville.

NOW THEREFORE, on behalf of the City of Harlingen and the City Commission, I, Mayor Chris Boswell, do hereby commemorate and proclaim September 27, 2019 as:

“PEPE’S RESTAURANT 25TH ANNIVERSARY DAY”

in the City of Harlingen, Texas and call upon all citizens to recognize Mr. Joe Ayala for his many years of service in the restaurant business and to the community.

IN WITNESS WHEREOF, I, Chris Boswell, Mayor of the City of Harlingen, have here unto set my hand and caused the Seal of the City of Harlingen to be affixed on this the 22ND Day of October, 2019.

CITY OF HARLINGEN

Chris Boswell, Mayor

ATTEST:

Amanda C. Elizondo
City Secretary
REGULAR MEETING

CITY COMMISSION

September 4, 2019

HARLINGEN, TEXAS

A Meeting of the Harlingen City Commission was held September 4, 2019 at 5:30 p.m., City Hall, Town Hall Meeting Room, 118 E. Tyler Street, Harlingen, Texas. Those in attendance were:

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

City Staff
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 Ruben De La Rosa

Pledge of Allegiance/Welcome

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

1) Proclamation – proclaiming September 17-23, 2019 as “Constitution Week”

Mayor Boswell read and presented the following proclamation to the following recipients, Lt. Thomas Barlow Chapter of the National Society, Daughters of the American Revolution, (Dawn Johnston, Vice-Regent, Dana Clark, Recording Secretary, Cynthia Worley, Treasurer, Ann T. Roberts, and Pat Keltner.)

2) Presentation on Status of Ongoing Drainage Projects.

Rodrigo Davila, Public Works Director, presented an update report on the Drainage Improvements Projects. A recap of the weather events that happened on June 24 – 25, 2019 are as follow.

- 12-15 inches of rainfall in 3.5 hours
- Various areas of localized flooding – West/Northwest
- Floodwaters up to 3-4 feet depth on roadways;
- More than 4,000 homes sustain water damage
- Over the charts classification; 500 year plus storm event

As of August 20, 2019 City crews collected 4,406,780 pounds of brush & debris and will continue to do so. City staff created an email to report damages and distributed cards with the City’s contact information for public assistance. The Public Works Dept. started re-profiling the ditch to increase the conveyance volume of the drain ditch and contained water within the ditch.
Improvements include the installation of flap gates on the storm pipes that discharge storm water from secluded acres. Cameron County Drainage District No. 5 is excavating two regional storm water detention ponds off of Breedlove Rd., north of Loop 499. The widening of the 13th Street Drainage Ditch Project is scheduled to start September 3rd, and the Dixieland Drainage Ditch will start October 2019. Staff is working on Halpin Road, Becky Lane, Jefferson Drainage Ditch, Lake Drive, Beckham Road, and Altas Palmas Road. There are four (4) pending grant applications and if approved funds will be used for drainage improvements.

3) Approval of Minutes

a) Special Meeting of June 24, 2019
b) Regular Meeting of August 7, 2019

Motion was made by Commissioner De La Rosa and seconded by Mayor Pro-Tem Mezmar to approve the minutes of June 24, and August 7, 2019. Motion carried unanimously.

CONSENT AGENDA

4a) Second and final reading of Ordinance No. 16-34 amending Exhibit “A”, School Zone Areas to add a school zone along Stuart Place Rd. and Business Highway 83 adjacent to Stuart Place Elementary School, and add Page 27 establishing a new school zone on S. Palm Court Dr. adjacent to the Jubilee Academy.

b) Consideration and possible action to approve a request from the Rotary Shrimp Fest of South Texas, Inc. to close Jackson Avenue from 1st Street to Commerce Street and “A” Street from Van Buren to Monroe Avenue from 2 a.m. to 11:59 p.m. for their 2020 Shrimp Fest Event on Saturday, March 28, 2020 at the Lozano Park from 5:00 p.m. to 9:00 p.m.

c) Consideration and possible action to approve a request from the Immaculate Heart of Mary Catholic Church to close South “C” Street between Polk Street and Tyler Avenue, Friday, October 4th, 12:00 noon to begin setting up thru midnight, Sunday, October 6th, 2019 for their Annual Fiesta de Amistad.

d) Consideration and possible action to approve a request from the Harlingen Housing Authority to close North 24th Street from East Palm Blvd. to Briar Avenue within the LeMoyne Gardens Housing Complex from 1:00 p.m. to 7:00 p.m., Thursday, October 17, 2019 for their Community Fall Festival.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve items (a thru d) under the Consent Agenda. Motion carried unanimously.

Mayor Boswell moved the order of the agenda and proceeded with the following item.

8) Consideration and possible action to approve an ordinance on first reading adopting the City of Harlingen’s Budget for Fiscal Year 2019-2020.

Sergio Villasana, Asst. Finance Director, stated Senate Bill No. 656 effective September 1, 2013 requires a record vote from the City Commission to adopt the Proposed City of Harlingen Budget for Fiscal Year 2019-2020. He highlighted Exhibit “A” which represents the total proposed revenues of $77,585,220, expenditures of $79,247,357, and estimated fund balances for Fiscal Year 2019-2020. He recommends approval of the ordinance.
Motion was made by Commissioner De La Rosa and seconded by Commissioner Leal to approve the ordinance on first reading adopting the City of Harlingen’s Budget for Fiscal Year 2019-2020.

Commissioner Mezmar stated the revenues are $77 million and expenditures are $79 million, a difference of $2 million more. He asked if the difference would come from the City’s reserve fund.

Mr. Villasana responded yes, the funds would be from various funds.

Mayor Boswell stated the Commission received their budget package as early July. We had two (2) workshops on the budget, two (2) public hearings, a special and regular meeting on the budget.

Mayor Boswell entertained a record vote and it carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, Puente, De La Rosa, and Leal. AGAINST: None. (VOTE 5-0).

6) Consideration and possible action to approve an ordinance on first reading by record vote adopting the 2019 Ad Valorem Tax Rate for Maintenance and Operation for Fiscal Year 2019-2020.

Mr. Villasana, stated a record vote was required from the City Commission to adopt the 2019 Ad Valorem Tax Rate for the Maintenance and Operation for Fiscal Year 2019-2020. The adoption of the City’s tax rate is done in two parts. The first part is the Maintenance and Operation Rate, proposed at $0.518100 per $100 valuation. Combined with the Interest and Sinking Rate, the proposed tax rate is $0.630000. All legal requirements were met for the adoption of the tax rate and recommended approval of the ordinance.

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

Motion was made by Mayor Pro-Tem Mezmar and seconded by Commissioner Leal to approve the ordinance on first reading by record vote adopting the 2019 Ad Valorem Tax Rate for Maintenance and Operation for Fiscal Year 2019-2020.

The record vote carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, De La Rosa, and Leal. AGAINST: Commissioner Puente. Vote: (4-1).

7) Consideration and possible action to approve an ordinance on first reading by record vote adopting the 2019 Ad Valorem Tax Rate for the Interest and Sinking Fund for Fiscal Year 2019-2020.

Mr. Villasana stated a record vote was required from the City Commission to adopt the 2019 Ad Valorem Tax Rate for the Interest and Sinking Fund for Fiscal Year 2019-2020 proposed at $0.111900 per $100 valuation to pay for the City debts. Combined with the Maintenance and Operation Rate, the proposed tax rate is $0.630000. All requirements were met for the adoption of the tax rate and recommended approval of the ordinance.

Ms. Bastian read the caption of the ordinance.
Motion was made by Commissioner De La Rosa and seconded by Mayor Pro-Tem Mezmar to approve the ordinance on first reading by record vote adopting the 2019 Ad Valorem Tax Rate for the Interest and Sinking Fund for Fiscal Year 2019-2020.

The record vote carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, Puente, De La Rosa, and Leal. AGAINST: None. Vote: (5-0).

Mayor Boswell returned to the regular order of the agenda and proceeded with the following item.

5) Presentation by Hill Top Security regarding refinancing opportunities for the City of Harlingen.

Mrs. Anne Burger Entrekin, Regional Managing Director at Hilltop Securities, made a presentation regarding the Proposed Refunding Opportunity: General Obligation Refunding Bonds, Series 2019 and reported on the market perspective, interest rate environment, and market condition. She highlighted the Bond Buyer's GO Index of 20 Year History and as of August 29, 2019 to determine the market trends. Interest rates in 1990's were over 6%, last week rates were at a 2.9%, the lowest rates since the 60's. There is a lot going on from a geopolitical perspective. A number of things are going on in the markets that are causing this unique opportunity for interest rates to decline and for potential refinancing opportunities. They are not only looking within the context of this specific bond issue, but within the perspective of the overall City's debt profile. The City's outstanding debt is relatively level from 2020 through 2024, than it starts declining. The Refunding of Bonds, Series 2019 is the most beneficial for the City to target the savings from 2021 to 2024. Ms. Entrekin highlighted the following information.

The Proposed and Projected General Obligation Refunding Bonds, Series 2019

<table>
<thead>
<tr>
<th>Refunding Par Amount</th>
<th>$1,730,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Savings</td>
<td>$165,709</td>
</tr>
<tr>
<td>Average Annual Savings (2021-2024)</td>
<td>$40,136</td>
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<tr>
<td>Net Present Value Savings</td>
<td>$155,256</td>
</tr>
<tr>
<td>Present Value Benefit (%)</td>
<td>8.324%</td>
</tr>
<tr>
<td>True Interest Cost</td>
<td>1.936%</td>
</tr>
</tbody>
</table>

Refunding Opportunity: Summary of CO's Soon to be currently Callable

<table>
<thead>
<tr>
<th>Combination tax and Revenue Certificates of Obligation, Series 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Principal Amount</td>
</tr>
<tr>
<td>Callable Principal</td>
</tr>
<tr>
<td>Callable Maturities</td>
</tr>
<tr>
<td>Coupons</td>
</tr>
<tr>
<td>Call Date</td>
</tr>
</tbody>
</table>

Commissioner Mezmar stated the interest rates have plummeted in the last four or five months, it would behoove the City to refinance.

Discussion was held regarding the interest rates and the pricing of the callable date and Ms. Entrekin stated they had looked at the dates to provide a cushion and they added 25 basis points, but they would be subject to whatever the prevailing interest rates are at that time. The balance is currently $1,865,000. With the passage of the Tax Cuts and Job Acts of 2017, advanced refundings...
are no longer permitted. Refunding bond issues must close within 90 days of the call date. February 15, 2020 is the call date. The first day the proposed refunding bonds could practically close would be Tuesday, November 19, 2019 and the earliest these bonds could practically price is Thursday, October 17, 2019.

Mayor Boswell stated this is only a presentation and no action is required on this item.

9) Consideration and possible action to approve a resolution accepting the Downtown Improvement District Budget for Fiscal Year 2019-2020.

Mr. Villasana stated the total revenues and expenditures for Fiscal Year 2019-2020 for the Downtown Improvement District are: (revenues - $243,825 and expenditures - $259,809) for Fiscal Year 2019-2020.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the resolution accepting the Downtown Improvement District Budget for Fiscal Year 2019-2020 and recommended approval of the resolution. Motion carried unanimously.

10) Consideration and possible action to approve the selection of External Auditing Services.

Mr. Villasana stated the existing auditing services contract with Carr Riggs & Ingram CPA's & Advisors expires September 30, 2019. Staff solicited proposals for auditing services and the City received (3) three proposals from the following firms; BKD CPA's & Advisors, Carr Riggs & Ingram CPA's & Advisors, and Burton McCumber Longoria, LLP CPA's & Advisors. The Audit Committee met August 28, 2019 to collectively rank the firms and based on the qualifications, recommended to award the auditing services contract to Carr Riggs & Ingram CPA's & Advisors.

Motion was made by Commissioner Uribe and seconded by Commissioner Puente to approve the selection of Carr Riggs & Ingram CPA's & Advisors as the external auditors for a three year contract with the option to renew for two (2) years. Motion carried unanimously.

11) Consideration and possible action to award the Banking Service Contract.

Commissioner Puente stated he received the information prior to the meeting and requested tabling the item to the next regular meeting to have some time to review it.

Mayor Pro-Tem Mezmar asked if there was still time to table the item.

Mr. Villasana responded the banking service contract would expire September 30, 2019.

Commissioneer Leal asked who reviewed the information.

Mr. Villasana stated the bids were reviewed by the senior accountant, himself, and Investment Advisors, Hilltop Security Staff and the bidders were rated based on their services and fees.

Motion was made by Commissioner Puente to table the award of the Banking Service Contract to the next Regular City Commission Meeting of September 18, 2019. Motion carried as follows:

FOR: Commissioners: Leal, Puente, and De La Rosa. AGAINST: Commissioner Uribe and Mayor Pro-Tem Mezmar. VOTE: (3-2).

12) Consideration and possible action to approve a resolution accepting Valley International Airport Proposed Budget for Fiscal Year 2019-2020.
Ron Mustard, Director of Finance highlighted the Valley International Airport Proposed Budget for Fiscal Year 2019-2020 Valley.

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>Increases (Decreases)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mid Year</td>
<td>Budget</td>
<td></td>
</tr>
<tr>
<td>Projected Revenues</td>
<td>$6,820,500</td>
<td>$6,997,800</td>
<td>$166,500</td>
</tr>
<tr>
<td>Expenditures</td>
<td>$6,360,000</td>
<td>$6,820,500</td>
<td>$460,500</td>
</tr>
<tr>
<td>Net Income (EXCL DEPN)</td>
<td>$6,831,300</td>
<td>$6,997,800</td>
<td>$166,500</td>
</tr>
<tr>
<td>Revenues</td>
<td>$6,360,000</td>
<td>$6,820,500</td>
<td>$460,500</td>
</tr>
<tr>
<td>Expenses</td>
<td>$471,300</td>
<td>$177,300</td>
<td>(294,000)</td>
</tr>
<tr>
<td>Total Capital Improvements</td>
<td>$21,415,000</td>
<td>$21,617,000</td>
<td></td>
</tr>
</tbody>
</table>

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to approve the resolution accepting Valley International Airport Proposed Budget for Fiscal Year 2019-2020. Motion carried unanimously.

13) Consideration and possible action to approve an ordinance on first reading to amend the City of Harlingen Code of Ordinances, Chapter 109 (Subdivisions), Article V, Standards and Specifications, Section 109-124(F) Sidewalks, to require sidewalks on local streets and perimeter streets. Applicant: City of Harlingen.

Xavier Cervantes, Planning and Development Director, stated the following amendments were drafted to establish sidewalk regulations to comply with the 2014 ADA Transition Plan.

1. All streets will require sidewalks. Sidewalks are required on major arterial, minor arterial and major collector streets only. The proposed amendment will require sidewalks on local/interior streets regardless of whether the residential subdivision is within 1,000 ft. of a school. This amendment is addressed on Section 109-124(F)(1).

2. Sidewalk requirements are clarified for subdivisions fronting a perimeter street. Sidewalks fronting a perimeter street shall be installed at the developer's expense at the time the curb and gutter is installed or if already there. If the perimeter street has no curb and gutter, the developer shall escrow funds for sidewalks. This amendment is addressed on Section 109-124(F)(1) and 109-124(F)(4).

3. The installation of sidewalks for lots fronting a local/interior street is established. Sidewalks fronting a local/interior street shall be required along street fronts and sides of lots at the time of building improvements on the lot. A note on the plat shall be required to this effect prior to subdivision recording. For residential subdivisions, sidewalks shall also be installed at a minimum of three ft. from the street curb, or in line with existing sidewalks in the area. This amendment is addressed on Sections 109-124(F)(4) and 109-124(F)(9).

4. A provision to address sidewalk gaps is established for residential subdivisions for lots fronting a local/interior street. A sidewalk assessment shall be paid by the developer for each of the interior lots in the subdivision in the amount of fifteen (15) percent of the total cost estimate. The funds shall be used to address sidewalk gaps, if necessary, after an approximate ten year period after subdivision recording. This amendment is addressed on Section 109-124(F)(7).
5. The section addressing curb ramps is expanded to incorporate lots fronting local/interior streets.
Currently, sidewalks and ADA curb ramps are required for lots fronting arterial and collector streets only. The proposed amendment will require curb ramps on all street intersections at the developer's expense prior to the recording of the subdivision. The curb ramps must be certified by an ADA consultant prior to recording. This amendment is addressed on Section 109-124(F)(6).

The proposed changes to the Code of Ordinances have been reviewed and approved by the City Attorney and City Engineer.

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

Motion was made by Commissioner Puente and seconded by Commissioner De La Rosa to approve the ordinance on first reading to amend the City of Harlingen Code of Ordinances, Chapter 109 (Subdivisions), Article V, Standards and Specifications, Section 109-124(F) Sidewalks, to require sidewalks on local streets and perimeter streets. Motion carried unanimously.

14) Consideration and possible action to approve the preliminary and final plat of the proposed Sun Country Subdivision with conditions and consider a variance request for the perimeter streets sidewalk requirements as per Section 109-124(f)(5), bearing a legal description of 38.202 acres of land out of Block 13, Harlingen Land and Water Company Subdivision "C", located on the north side of LaFayette Ave., west of Chester Park Road. Applicant: Ariel Chavez of CADCon Corp., c/o Beatriz Castellanos.

Mr. Cervantes stated the subject property is located on the northeast corner of Lafayette Avenue and Ramsey Road and is inside the city limits. The road and utilities for the subdivision were constructed around 2004, but a final plat was never recorded. The plat approval for that submittal has since expired, and the applicant resubmitted it in 2017, but did not complete the platting process.

- The proposed subdivision consists of 32 single family residential lots and 15 larger non-buildable lots. All streets and utility easements will be dedicated at this time. The non-buildable lots are to be replatted in the future, and a new drainage report will be prepared.
- The intended use is allowed based on the existing zoning designation of Single Family Residential (R-1) District.
- Water and sanitary sewer services will be provided by HWWS.
- Items on the list of conditions will be addressed prior to recording the plat of Sun Country Subdivision.
- The developer is requesting a variance from the City of Harlingen Code of Ordinances Section 109-124(f)(5) with regards to the required 5 ft. sidewalk along the right-of-way for the perimeter streets. The developer is proposing to escrow funds with the City equivalent to 15% of the estimated cost of the sidewalks for the perimeter streets.
- The Engineering Department reviewed the variance request and has no objections.

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 that:

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;
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
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 4/5th vote of the City Commission shall be required to override a recommendation for/or against the variance from P&Z Commission.

Motion was made by Commissioner Uribe and seconded by Commissioner Leal to approve the preliminary and final plat of the proposed Sun Country Subdivision with conditions. Motion carried unanimously.

For the record, only the preliminary and final plat of the proposed Sun Country Subdivision was approved and not the variance.

15) Consideration and possible action to approve the naming of the mountain bike trail as “Henry Roberts Loop” in memory of Mr. Henry Roberts.

Javier Mendez, Director of Parks and Recreation stated a group of local mountain bikers helped design and build a portion of a Mountain Bike Trail next to Arroyo Park on New Hampshire Street. The person that led this group and advocated for this trail was Mr. Henry Robert, owner of Bicycle World. Mr. Roberts became ill and could not physically help with the construction. The group of volunteers continued to work weekends and holidays together with City staff. They cleared and opened a little over 2 miles out of 6.2 miles of trail. At the last Mayors Wellness Council Meeting, the board recommended naming the trail in memory of Mr. Henry Roberts. Staff checked with Mrs. Maxine Elkins, donor of the land, and Mrs. Elkins’ attorney assured staff that they have no concerns naming the trail in memory of Mr. Roberts. Staff also spoke to the Roberts’ family regarding the naming of the trail and they agreed to it.

Motion was made by Commissioner Uribe and seconded by Commissioner Puente to approve the naming of the mountain bike trail as “Henry Roberts Loop” in memory of Mr. Henry Roberts. Motion carried unanimously.

16) Consideration and possible action to authorize the Harlingen Police Department to auction off a total of eight (8) motor vehicles, one (1) trailer, and two (2) generators using the GovDeals.com auction website.

Michael Kester, Chief of Police stated the Harlingen Police Department would like to auction a total of eight (8) motor vehicles, one (1) trailer and two (2) generators using the GovDeals.com auction website. These vehicles, generators, and trailer were removed from service and the Police Dept. has no use for them.

Motion was made by Commissioner Uribe and seconded by Commissioner Leal to authorize the Harlingen Police Department to auction a total of eight (8) motor vehicles, one (1) trailer, and two (2) generators using the GovDeals.com auction website. Motion carried unanimously.

17) Board Appointments

Mayor Boswell appointed Jennifer Colton to the Animal Shelter Advisory Committee.

Motion was made by Mayor Pro-Tem Mezmar and seconded by Commissioner Uribe to approve the appointment of Jennifer Colton to the Animal Shelter Advisory Committee. Motion carried unanimously.

19) Citizen Communication
Robert Leftwich and Ron Lozano, residents of Harlingen, signed up to speak under citizen communication regarding the tax increase/budget. Mr. Leftwich and Mr. Lozano left the meeting room prior to the item being announced.

18) Executive/Closed Session pursuant to the Texas Gov't Code, Section §551.071(2) to receive legal advice regarding certain bills of the 86th Texas Legislature affecting the Texas Open Meetings Act.

At 7:04 p.m., Mayor Boswell announced the City Commission would convene into executive session to discuss Item 18.

Motion was made by Commissioner Leal and seconded by Commissioner De La Rosa to convene into executive session to discuss Item No. 18. Motion carried unanimously.

At 7:16 p.m., Mayor Boswell announced the City Commission had completed its executive session and stated no action was required.

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

CITY OF HARLINGEN

__________________________
Chris Boswell, Mayor

ATTEST:

__________________________
Amanda C. Elizondo, City Secretary
SPECIAL MEETING

CITY COMMISSION

September 17, 2019

HARLINGEN, TEXAS

A Special Meeting of the Harlingen Elective Commission was held Tuesday, September 17, 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
Michael Mezmar, Mayor Pro-Tem, District 3
Richard Uribe, City Commissioner, District 1
Frank Puente, City Commissioner, District 2
Ruben De La Rosa, City Commissioner, District 4
Victor Leal, City Commissioner, District 5

STAFF PRESENT

Dan Serna, City Manager
Amanda C. Elizondo, City Secretary
Ricardo Navarro, 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:

1) Gavel Open Meeting

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

2) Citizen Communication / Input

The following citizen’s signed up for Citizen Communication regarding the following agenda items.

- Juan Ortega - address, 2401 Alani Circle, Harlingen, TX - (5, 6)
- Minerva Simpson - address, 15701 Perkins Rd. Harlingen, TX - (2)
- Ron Lozano - address, 2410 Riverside Dr. Harlingen, TX - (4, 5, 6)
- Robert Leftwich - address, 909 E. Parkwood, Harlingen, TX - (4, 5, 6)
- Juan V. Garcia - address, 5718 Wild Persimmon, Harlingen, TX - (4, 5, 6)
- Jesus Aguilera - address, 1314 Oak Court, Harlingen, TX - (4, 5, 6)
- Rosanna Aguilera - address, 1314 Oak Court, Harlingen, TX - (4, 5, 6)
- Raymond Reyes - address, 706 Nantucket Drive, Harlingen, TX - (4, 5, 6)
- Kathleen Sheldon - address, 1609 E. Van Buren, Harlingen, TX - (4, 5, 6)
- Senovio Martinez - address, 909 N. 26th St. Harlingen, TX

3) Second reading to approve an Ordinance by record vote adopting the City of Harlingen’s Budget for Fiscal Year 2019-2020.

Elvia Trevino, Finance Director, stated this is the second reading of the ordinance adopting the Proposed Budget 2019-2020. Total proposed revenues $77,585,220 and total proposed expenditures $79,247,357. A record vote is required to approve this item. She recommended approval of the ordinance.

Ric Navarro, City Attorney, read the caption of the ordinance.
Motion was made by Commissioner Uribe and seconded by Commissioner De La Rosa to approve the ordinance adopting the City of Harlingen’s Budget for Fiscal Year 2019-2020 by record vote.

The motion carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, De La Rosa, and Leal. AGAINST: Commissioner Puente. (VOTE 4-1)

For the record, the caption of ordinance read as follows:

ORDINANCE NO. 2019-27
AN ORDINANCE ADOPTING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR THE FISCAL YEAR OCT. 1, 2019 THROUGH SEPT. 30, 2020 IN THE AMOUNT OF $77,585,220 AND $79,247,357 RESPECTIVELY; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ATTEST: /S/ Amanda C. Elizondo, City Secretary
/s/Chris Boswell, Mayor

Consideration and appropriate action on a resolution ratifying the property tax increase reflected in the adopted budget for Fiscal Year 2019-2020, and related matters.

Mrs. Trevino stated the City’s Budget for Fiscal Year 2019-2020 requires an increase in property taxes. A separate vote from the budget is required to ratify the property tax increase.

Motion was made by Commissioner Uribe and seconded by Commissioner De La Rosa to approve the resolution ratifying the property tax increase reflected in the adopted budget for Fiscal Year 2019-2020 and related matters.

Dan Serna, City Manager, stated this item does not require a record vote.

Mayor Boswell asked if anyone in audience would like to be recognized to speak for or against this item.

Robert Leftwich opposed the proposed tax increase and stated the budget that is being used for the super park from 4B money should be utilized for the drainage projects. Harlingen does not need a super park. There are sufficient funds in the budget that can be reallocated to do these things.

A Harlingen resident that has flood insurance did a claim through their insurance company after the flood in June, 2019 and their insurance premium increased from $750 to $2,879 per year. With these types of increases, people are being affected and it will affect the real estate business and people to qualify for homes. These increases are worse than the increase of the taxes. I ask for you to relook at the budget and make necessary changes instead of increasing the taxes.

Mayor Boswell also recognized Ron Lozano.

Ron Lozano asked Ric Navarro, City Attorney, if the tax increase rate was tied into the budget and asked if it was 9.81%

Mr. Navarro responded that the question being asked is for the next item and the tax rate amount is mentioned in the ordinance.

Mayor Boswell asked if anyone else wanted to comment on this item.
There being no additional comments from the audience, Mayor Boswell entertained a vote and it carried unanimously.


Mrs. Trevino stated a record vote is required to approve the second reading of the ordinance adopting the Ad Valorem Tax Rate for Maintenance and Operation, proposed at $0.518100 per $100 valuation. Combined with the Interest and Sinking Fund Rate the total ad valorem tax rate is $0.630000, which is 9.81% above the effective tax rate. She recommended approval of the ordinance.

Ric Navarro, City Attorney read the caption of the ordinance.

A motion was made by Mayor Pro-Tem Mezmar as follows: "I move to adopt an ad valorem tax rate for maintenance and operations of $0.518100 for each $100 assessed." This motion was seconded by Commissioner Uribe.

Mayor Boswell asked if there was any discussion.

Mayor Boswell stated the following meetings had been held announcing the initiation of the proposed budget and tax rate increase for FY 2019-2020.

- Two (2) Budget Workshops held on July 11th & 19th, 2019 to discuss the proposed budget for Fiscal Year 2019-2020;
- Special Meeting of July 24th, 2019 to discuss the proposed desired tax rate for FY 2019-2020;
- Regular Meeting of August 7th, 2019 – public hearings to solicit comments from the public on the proposed budget and tax rate of $0.630000 for FY 2019-2020;
- Regular Meeting of August 21st, 2019 – second public hearing to solicit comments from the public on the proposed tax rate of $0.630000;
- Regular Meeting of September 4th, 2019 to adopt the first readings of the ordinance to the budget and tax rate (M&O & I&S) for FY 2019-2020; and
- Special Meeting of September 17th, 2019 adopting the second and final reading of the budget and tax rate (M&O & I&S) ordinances for FY 2019-2020.

A total of seven (7) meetings have been held in regards to the tax rate increase. One (1) of the special meetings did not have a public hearing or a required discussion on the item and Robert Leftwich, Yolanda Schofield and Minerva Simpson to speak on the tax rate increase even though there was no public hearing on the item. On the course of these seven (7) meetings on my count a total of 15 individuals spoke opposing the tax rate increase. At those meeting along with the one tonight, a lot of false statements have been made. Despite of all the media coverage, I have not received a single phone call, emails or outreach, from any other people other than the 15 people that have spoken multiple times. Nobody from the health care industry, retail industry, hotel arena, chamber board members, or other individuals have called regarding this issue. Other individuals that I spoke to have reached out to me are in support of the tax rate increase and know why we have to do this. The reason they support the tax rate is because they understand the process and that the tax rate increase is required to improve city services and upgrade equipment. Just in one (1) drainage project alone that is coming up this year will cost more than the tax rate increase. The tax rate increase will generate $1.4 million and our match on the drainage project is $1.7 million. We will be doing more drainage projects this year and next year because we do have a fund balance available. To continue doing these kinds of improvements in our City, these the kinds of changes and increases we need to make. This might not solve all the problems, but it is going to allow us to step up on some of the projects. The City has not increase the tax rate in the last 14 years. Even at the tax
rate of $0.630000, it is like 10 to 15% less than cities in Cameron County and less than the cities in Hidalgo County.

Mayor Boswell entertained a record vote on Item No. 5.

Motion carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, De La Rosa, and Leal. AGAINST: Commissioner Puente. (VOTE 4-1)

A motion was made by Mayor Pro-Tem Mezmar as follows: "I move that the property tax rate be increased by the adoption of a tax rate of $0.630000 for each $100 assessed, which is effectively a 9.81% increase in the tax rate." The motion was seconded by Commissioner Uribe.

Mayor Boswell called for a record vote and it carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, De La Rosa, and Leal. AGAINST: Commissioner Puente. (VOTE 4-1)

For the record, the caption of the ordinance read as follows:

ORDINANCE NO. 2019-23

AN ORDINANCE FIXING THE AD VALOREM TAX RATE FOR MAINTENANCE AND OPERATIONS FOR THE CITY OF HARLINGEN, TEXAS FOR THE CALENDAR YEAR 2019 AT $0.518100 PER ONE HUNDRED DOLLARS ($100.00) VALUATION, TOGETHER WITH THE AD VALOREM TAX RATE FOR INTEREST AND SINKING PAYMENTS, FOR A TOTAL PROPOSED TAX RATE OF $0.630000; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ATTEST: /S/ Amanda C. Elizondo, City Secretary /s/ Chris Boswell, Mayor


Mrs. Trevino stated a record vote is required to approve the second reading of the ordinance adopting the 2019 Ad Valorem Tax Rate for the Interest and Sinking Fund proposed at $0.111900 per $100 valuation. Combined with the Maintenance and Operation Rate; it totals to the proposed tax rate of $0.630000, which is 9.81% above the effective tax rate. She recommended approval of the ordinance.

Ric Navarro, City Attorney read the caption of the ordinance.

A motion was made by Mayor Pro-Tem Mezmar as follows: I move to adopt an Ad Valorem Tax Rate for Interest and Sinking of $0.111900 for each $100 assessed." Commissioner Uribe seconded the motion.

Mayor Boswell asked if there was any discussion on this item and recognized Robert Leftwich.

Robert Leftwich stated the 4B Corporation obviously does not represent the majority of the City according to the Mayor's diagnosis. However, no retail people or developers were mentioned by Mayor Boswell stating they had been affected by the floods, because those are the people that are benefitting and getting our money. The people's homes that were flooded are the ones speaking out and having to pay the bill. I think you all should reconsider the budget. We have the highest paid City Manager in the Valley and it is ridiculous. It is not the Public Safety Departments.
Mayor Boswell announced that residents need to comment only on the item that is being discussed and not on a different subject.

JV Garcia, citizen, stated that he is one of the 14 persons Mayor Boswell mentioned previously about being liars and making up false stories. He is representing over 100 people that attended the Town Hall meetings and at this moment, they cannot be here because they are dealing with the recovery of the floods.

Mayor Boswell stated citizens are to speak on the item that is being discussed. He asked if anyone else would like to be recognized to speak on the tax rate for the Interest and Sinking Fund to pay off the City's debt.

Ron Lozano, citizen, stated they were opposing the tax rate. At the last meeting there was a 40 minute presentation regarding drainage which would create a debt. There is a raining day fund and it has more than enough money. The City does not need to raise taxes on the residents because there are funds available.

Mayor Boswell asked if anyone else would like to speak for or against the item that being discussed. There being none, he asked for a record vote on Item No. 6.

The record vote carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, Puente, De La Rosa, and Leal. AGAINST: None. (VOTE 5-0)

A motion was made by Mayor Pro-Tem Mezmar as follows: "I move that the property tax rate be increased by the adoption of a tax rate of $0.630000 for each $100 assessed, which is effectively a 9.81% increase in the tax rate." The motion was seconded by Commissioner Uribe.

The record vote carried as follows: FOR: Mayor Pro-Tem Mezmar, Commissioners: Uribe, Puente, De La Rosa, and Leal. AGAINST: None. (VOTE 5-0).

For the record, the caption of the ordinance read as follows:

ORDINANCE NO. 2019 -24
AN ORDINANCE FIXING THE AD VALOREM TAX RATE FOR INTEREST AND SINKING PAYMENTS FOR THE CITY OF HARLINGEN, TEXAS FOR THE CALENDAR YEAR 2019 AT $0.111900 PER ONE HUNDRED DOLLARS ($100.00) VALUATION, TOGETHER WITH THE AD VALOREM TAX RATE FOR MAINTENANCE AND OPERATIONS, FOR A TOTAL PROPOSED TAX RATE OF $0.630000; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

ATTEST: /S/ Amanda C. Elizondo, City Secretary
City Of Harlingen

/s/Chris Boswell, Mayor

Adjournment

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

CITY OF HARLINGEN

Chris Boswell, Mayor

ATTEST:

Amanda C. Elizondo, City Secretary
ORDINANCE NO. 19-_____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO EYAL TURGEMAN TO ALLOW AN ADULT BUSINESS (SMOKE SHOP) IN A GENERAL RETAIL (GR) DISTRICT LOCATED AT 216 N. ED CAREY DRIVE, SUITE 6, BEARING A LEGAL DESCRIPTION OF 1.583 ACRES OUT OF VECTOR SUBDIVISION UNIT 1, SUBJECT TO: (1) OBTAINING AND MAINTAINING THE PROPER STATE AND CITY PERMITS; (2) MAINTAINING THE REQUIRED PARKING IN ACCORDANCE WITH CITY REGULATIONS; (3) PROVIDING VIDEO SURVEILLANCE WITH A 30 DAY RETENTION; AND (4) COMPLYING WITH THE REQUIREMENTS ADMINISTERED BY THE PLANNING AND ZONING, BUILDING INSPECTIONS, ENVIRONMENTAL HEALTH, FIRE PREVENTION, AND POLICE DEPARTMENTS.

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen’s Zoning Ordinance procedure, has recommended a specific use permit 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 specific use permit having been fully made and complied with as required by said Code of Ordinances 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 issued a specific use permit as indicated with the following conditions:

To issue a Specific Use Permit to Eyal Turgeman to allow an adult business (smoke shop) (GR) District located at 216 N. Ed Carey Drive, Suite 6, bearing a legal description of 1.583 acres out of Vector Subdivision Unit 1 subject to: (1) Obtaining and maintaining the proper State and City permits; (2) Maintaining the required parking in accordance with city regulations; (3) Providing video surveillance with a 30 day retention; and (4) Complying with the requirements administered by the Planning and Zoning, Building Inspections, Environmental Health, Fire Protection, and Police Departments.

The provisions prohibiting the violation of the Zoning Ordinance shall continue in full force and effect and apply to this amendment.

The specific use permit is made contingent upon a site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as EXHIBIT “A”.

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
ORDINANCE NO. 19

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN:
REZONING FROM RESIDENTIAL, SINGLE FAMILY ("R-1") DISTRICT TO NEIGHBORHOOD SERVICES ("NS") DISTRICT FOR 0.891 OF AN ACRE OUT OF BLOCK 21, HOWARD DIXIELAND HEIGHTS SUBDIVISION, LOCATED AT 1401 DIXIELAND ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

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

BE IT ORDAINED BY THE CITY OF HARLINGEN

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

Rezoning from Residential, Single Family ("R-1") to Neighborhood Services ("NS") for 0.891 of an acre out of Block 21, Howard Dixieland Heights Subdivision, located at 1401 Dixieland Road.
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**

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Chris Boswell, Mayor

**ATTEST:**

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Amanda C. Elizondo, City Secretary
Request of Ricardo Caballero to rezone from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for 0.891 of an acre out of Block 21, Howard Dixieland Heights Subdivision, located at 1401 Dixieland Road.
ORDINANCE NO. 19-_____

AN ORDINANCE ABANDONING AND VACATING A PORTION OF A 1.0 FOOT NON-ACCESS EASEMENT, DESCRIBED AS A 0.0006 ACRE OF LAND (27 SQUARE FEET) OUT OF LOT 5, ARBOR HEALTH SUBDIVISION, LOCATED AT 1801 ATRIUM PLACE

WHEREAS, there exists a one (1) foot non-access easement being 0.0006 acre of land (27 square feet) out of Lot 5, Arbor Health Subdivision, Cameron County, Texas; as described in Exhibit “A” and

WHEREAS, a request has been made by Jeff Bell which is the landowner for the subject lot to abandon the non-access easement;

WHEREAS, the said non-access easement interferes with the future development of the subject property; and

WHEREAS, the City Commission finds and determines that it is in the interest of economic development to abandon the non-access easement: Now therefore

BE IT ORDAINED BY THE CITY OF HARLINGEN

SECTION I: That the portion of the one (1) foot non-access easement located on the north side of Lot 5, Arbor Health Subdivision Harlingen, Cameron County, Texas, according to the map recorded in Cabinet 1, Slot 3303-B of the Map Records of Cameron County, Texas, and incorporated herein by reference as Exhibit “A” is hereby abandoned and vacated.

FINALLY ENACTED this _____ day of October, 2019 at a regular meeting of the 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
Easement Abandonment
1801 Atrium Place

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Chris Boswell, Mayor

ATTEST:

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Amanda Elizondo, City Secretary
METES AND BOUNDS

BEING 0.0006 ACRE (27 SQUARE FEET) OUT OF LOT 5, ARBOR HEALTH SUBDIVISION, RECORDED IN CABINET 1, PAGE 3003-8, MAP RECORDS OF CAMERON COUNTY, TEXAS, BEING OUT OF A 1 FOOT WIDE NON-ACCESS EASEMENT; SAID 0.0006 ACRE OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT AN IRON ROD FOUND FOR THE NORTHEAST CORNER OF LOT 5, BEING ON THE SOUTH RIGHT OF WAY OF HAM NE DRIVE (HAVING 20.00 FEET OF RIGHT OF WAY) AND BEING ON A CURVE TO THE RIGHT;

THENCE ALONG THE NORTH BOUNDARY OF LOT 5 AND ALONG SAID CURVE TO THE RIGHT, WITH A RADIUS OF 3,040.00 FEET, AN ARC LENGTH OF 103.39 FEET, AND A CENTRAL ANGLE OF 05 DEG. 43 MIN. 45 SEC., HAVING A CHORD Bearing OF NORTH 55 DEG. 26 MIN. 05 SEC. WEST AND A CHORD DISTANCE OF 103.34 FEET TO AN IRON ROD FOUND;

THENCE CONTINUING ALONG THE NORTH Boundary OF LOT 5, NORTH 53 DEG. 35 MIN. 13 SEC. WEST A DISTANCE OF 15.81 FEET TO A POINT, FOR THE NORTHWEST CORNER AND POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED:

1) THENCE LEAVING THE NORTH BOUNDARY OF LOT 5, SOUTH 36 DEG. 24 MIN. 47 SEC. WEST A DISTANCE OF 1.00 FOOT TO A POINT, FOR THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED;

2) THENCE NORTH 53 DEG. 35 MIN. 13 SEC. WEST A DISTANCE OF 27.13 FEET TO A POINT, FOR THE SOUTHWEST CORNER OF THE TRACT HEREIN DESCRIBED;

3) THENCE NORTH 53 DEG. 35 MIN. 13 SEC. EAST A DISTANCE OF 3.60 FOOT TO A POINT ON THE NORTH BOUNDARY OF LOT 5, BEING ON THE SOUTH RIGHT OF WAY OF HAM NE DRIVE FOR THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED;

4) THENCE ALONG THE NORTH BOUNDARY OF LOT 5 AND THE SOUTH RIGHT OF WAY OF HAM NE DRIVE, SOUTH 53 DEG. 35 MIN. 13 SEC. EAST A DISTANCE OF 27.13 FEET TO THE POINT OF BEGINNING; CONTAINING 0.0006 ACRE OF LAND WITHIN THESE METES AND BOUNDS.

Basis of bearings as per Arbor Health Subdivision, recorded in Cabinet 1, Page 3003-8, Map Records of Cameron County, Texas.
Easement Abandonment
1801 Atrium Place
ORDINANCE NO. 19-____

AN ORDINANCE ABANDONING AND VACATING THE 1.0 FOOT NON-ACCESS EASEMENT, DESCRIBED AS 360 SQUARE FEET OUT OF THE SOUTH SIDE OF LOT 5, BLOCK 1, HARLINGEN HEIGHTS II SUBDIVISION, LOCATED AT 2410 SPUR 54

WHEREAS, there exists a one (1) foot non-access easement being 360 square feet out of the south side of Lot 5, Block 1, Harlingen Heights II Subdivision, Cameron County, Texas; as shown in Exhibit "A" and

WHEREAS, a request has been made by Ezequiel Reyna, Jr, which is the landowner for the subject lot to abandon the non-access easement;

WHEREAS, the said non-access easement interferes with the future development of the subject property; and

WHEREAS, the City Commission finds and determines that it is in the interest of economic development to abandon the non-access easement: Now therefore

BE IT ORDAINED BY THE CITY OF HARLINGEN

SECTION I: That the one (1) foot non-access easement located on the south side of Lot 5, Block 1, Harlingen Heights II Subdivision Harlingen, Cameron County, Texas, according to the map recorded in Cabinet 1, Slot 1, 3135B of the Map Records of Cameron County, Texas is hereby abandoned and vacated.

FINALLY ENACTED this ______ day of October, 2019 at a regular meeting of the 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
Easement Abandonment
2410 Spur 54

Chris Boswell, Mayor

ATTEST:

Amanda Elizondo, City Secretary
A tract of land containing 360 square feet of land, situated in Cameron County, Texas, being part or portion of Lot 5, Block 1, HARLINGEN HEIGHTS II SUBDIVISION, Harlingen, Texas, map reference: Cabinet 1, Slot 3135B, Map Records, Cameron County, Texas, and said 360 square feet also being more particularly described as follows:

BEGINNING, at a 3/16" iron rod found at the southeast corner of said Lot 5, the southeast corner a 1.0 foot non-access easement and on a curve of the North right-of-way line of US Expressway 83 (Spur 54), recorded in Volume 719, Page 299, C.C.D.R. for the southeast corner of this tract;

(1) THENCE in a southwesterly direction, along of the South line of said Lot 5 and said 1.0 foot non-access easement, and along said curve to the left of said North right-of-way line of US Expressway 83 (Spur 54), with a Radius of 2010.08 feet, an interior angle of 10° 14' 38", a tangent of 180.17 feet, an arch length of 359.38 feet and a chord that bears S 51° 22' 07" W a distance of 358.90 feet to a 3/16" iron rod found on an outside corner of said Lot 5 of and said 1.0 Non-Access Easement and the East right-of-way line of Harlingen Heights Drive the for an outside corner hereof;

(2) THENCE N 87° 34' 18" W, along the South line of said Lot 5 and said 1.0 Non-Access Easement and the East right-of-way line of Harlingen Heights Drive, a distance of 1.39 feet, to nail set on a curve on the southwest corner of said 1.0 Non-Access Easement, for the southwest corner hereof;

(3) THENCE in northeasterly direction, along of the North line of said 1.0 Non-Access Easement and said curve to the right with a Radius of 2011.08 feet, an interior angle of 10° 18' 05", a tangent of 181.28 feet, an arch length of 361.37 feet and a chord that bears N 51° 22' 12" E a distance of 361.09 feet to nail set East line said Lot 5 and northeast corner of said 1.0 Non-Access Easement, for the northeast corner hereof;

(4) THENCE S 13° 01' 27" W, along East line of said Lot 5 and the East line of said 1.0 Non-Access Easement, a distance of 1.45 feet, to the POINT OF BEGINNING, containing 360 square feet of land, more or less.

Bearing basis as per TEXAS STATE PLANE COORDINATES SYSTEM NAD 1983, South Zone. THE ABOVE DESCRIPTION WAS SURVEYED ON THE GROUND UNDER MY DIRECTION ON AUGUST 22, 2010.

Carlos Vázquez, R.P.L.S. No. 4608
CVQ Land Surveyors, LLC
T.B.P.L.S. Firm No. 1011900

P.O. Box 5066 • McAllen, Texas 78502 • Phone (956) 618-1551 • Fax (956) 618-1547
ORDINANCE NO. 19-__

AN ORDINANCE AUTHORIZING THE PLACEMENT OF A STOP SIGN ON VERMONT AVENUE AT ITS SOUTHERN INTERSECTION WITH 77 SUNSHINE STRIP; ESTABLISHING A FINE NOT TO EXCEED $200.00 DOLLARS FOR THE DRIVER OF ANY MOTOR VEHICLE WHO FAILS TO STOP AND YIELD THE RIGHT-OF-WAY IN OBEDIENCE TO THE STOP SIGNS HEREIN AUTHORIZED; AMENDING OR REPEALING CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

BE IT ORDAINED BY THE CITY OF HARLINGEN:

SECTION I: That a Stop sign be placed on Vermont Avenue at its southern Intersection with 77 Sunshine Strip.

SECTION II: The Chief of Police of the City of Harlingen, Texas is hereby authorized and directed to place the traffic control devices authorized by this ordinance.

SECTION III: It shall be unlawful for the driver of a motor vehicle to fail to stop and yield the right of way in obedience to the stop signs authorized by this ordinance.

SECTION IV: An offense under this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed $200.00

SECTION V: That the City Secretary is hereby given authorization and directed to cause a true and correct copy of the caption of this Ordinance to be published in a newspaper having general circulation in the City of Harlingen, Cameron County Texas.

FINALLY ENACTED THIS _____ day of _____, 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

ATTEST:

Chris Boswell, Mayor

Amanda C. Elizondo, City Secretary
Proposed Layout
Yield to Stop - Vermont Dr. and 77 Sunshine Strip

EXISTING

PROPOSED
EXISTING SIGNAGE PHOTOS
AADT = Average Annual Daily Traffic
At intersections where all approaches are controlled by STOP signs (see Section 2B.07), an ALL WAY supplemental plaque (R1-3P) shall be mounted below each STOP sign. The ALL WAY plaque (see Figure 2B-1) shall have a white legend and border on a red background.

The ALL WAY plaque shall only be used if all intersection approaches are controlled by STOP signs. Supplemental plaques with legends such as 2-WAY, 3-WAY, 4-WAY, or other numbers of ways shall not be used with STOP signs.

Support:

The use of the CROSS TRAFFIC DOES NOT STOP (W4-4P) plaque (and other plaques with variations of this word message) is described in Section 2C.59.

Guidance:

Plaques with the appropriate alternative messages of TRAFFIC FROM LEFT (RIGHT) DOES NOT STOP (W4-4aP) or ONCOMING TRAFFIC DOES NOT STOP (W4-4bP) should be used at intersections where STOP signs control all but one approach to the intersection, unless the only non-stopped approach is from a one-way street.

Option:

An EXCEPT RIGHT TURN (R1-10P) plaque (see Figure 2B-1) may be mounted below the STOP sign if an engineering study determines that a special combination of geometry and traffic volumes is present that makes it possible for right-turning traffic on the approach to be permitted to enter the intersection without stopping.

Support:

The design and application of Stop Beacons are described in Section 4L.05.

Section 2B.06 STOP Sign Applications

Guidance:

At intersections where a full stop is not necessary at all times, consideration should first be given to using less restrictive measures such as YIELD signs (see Sections 2B.08 and 2B.09).

The use of STOP signs on the minor-street approaches should be considered if engineering judgment indicates that a stop is always required because of one or more of the following conditions:

A. The vehicular traffic volumes on the through street or highway exceed 6,000 vehicles per day;
B. A restricted view exists that requires road users to stop in order to adequately observe conflicting traffic on the through street or highway; and/or
C. Crash records indicate that three or more crashes that are susceptible to correction by the installation of a STOP sign have been reported within a 12-month period, or that five or more such crashes have been reported within a 2-year period. Such crashes include right-angle collisions involving road users on the minor-street approach failing to yield the right-of-way to traffic on the through street or highway.

Support:

The use of STOP signs at grade crossings is described in Sections 8B.04 and 8B.05.

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Figure 2B-1. STOP and YIELD Signs and Plaques
ORDINANCE NO. 2019—

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AMENDING CHAPTER 48 UTILITIES ARTICLE III WATER SYSTEM CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN OF THE CITY OF HARLINGEN CODE OF ORDINANCES; ESTABLISHING ADMINISTRATIVE PENALTIES; ESTABLISHING AN EFFECTIVE DATE HEREOF.

WHEREAS, pursuant to the authority provided for in the City of Harlingen’s Charter, the Harlingen Waterworks System (“HWWS”) Board of Trustees approved Resolution No. R1819-48, providing for a Drought Contingency and Emergency Water Management Plan (“the Plan”), establishing regulations and restrictions on the delivery and consumption of water; and

WHEREAS, the City Commission of the City of Harlingen finds and determines that such regulations and restrictions are necessary to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions; and

WHEREAS, water uses regulated or prohibited under the Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties; and,

WHEREAS, an opportunity for the public to provide input on the Plan was provided at a meeting of the Harlingen City Commission on October 2, 2019. Input from officials of wholesale customers was also solicited via individual meetings and discussions with HWWS officials during September 2019; and,

WHEREAS, HWWS will comply with the provisions of the Plan and will periodically provide the public and wholesale customers of HWWS with information about the Plan including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage; and,

WHEREAS, the service area of the City of Harlingen is located within the Rio Grande Region M Planning Group and the HWWS will provide a copy of the Plan to the Texas Water Development Board.

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

Section 1. That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Commission.
Section 2. That CHAPTER 48 UTILITIES, ARTICLE III WATER SYSTEM, CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN, CITY OF HARLINGEN CODE OF ORDINANCES is hereby amended as set forth in Exhibit A, attached hereto and included for all purposes.

Section 3. It is hereby declared to be the intention of the City Commission that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

Section 4. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 5. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law. Final implementation and enforcement of the provisions of the ordinance will begin November 1, 2019.

Section 6. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Harlingen under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

Section 7. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED AND APPROVED on this ___ day of ___________ June, 2019.

CITY OF HARLINGEN

ATTEST:

Chris Boswell, Mayor

Amanda Elizondo, City Secretary
INSTRUCTIONS FOR CODIFICATION: AMEND THE UTILITIES ORDINANCE OF THE CITY OF HARLINGEN, TEXAS, CHAPTER 48 UTILITIES, ARTICLE III, WATER SYSTEM, CREATING DIVISION 4 DROUGHT CONTINGENCY AND EMERGENCY WATER MANAGEMENT PLAN

Sec. 48 – 137 Declaration of Policy, Purpose, and Intent

This Drought Contingency and Emergency Water Management Plan (the "Plan") has been adopted by Resolution No. R1819-48 of the Harlingen Waterworks System (HWWS) Board of Trustees and by Ordinance [ ] of the Harlingen City Commission in accordance with the requirements of Title 30 of the Texas Administrative Code Chapter 288.

The purpose of this Plan is to conserve the available water supply and protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

Unless otherwise indicated, all Sections of this plan shall apply to both retail and wholesale customers of HWWS.

Retail customer water uses regulated or prohibited under this Plan are considered to be non-essential, and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in the Enforcement section herein.

Sec. 48 -138 Public Involvement

Opportunity for the public to provide input on the Plan was provided at a meeting of the Harlingen City Commission on October 2, 2019. Input from officials of wholesale customers was also solicited via individual meetings and discussions with HWWS officials during September 2019.

Sec. 48 - 139 Public Education/Wholesale Customer Education

HWWS will periodically provide the public and wholesale water customers with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought and emergency response measures to be implemented in each stage. When drought and emergency stages are triggered and water use restrictions are implemented, educational
information will be provided by means of any one or a combination of public notices, website postings, press releases, and mailings.

HWWS maintains a station at two of its public buildings for distribution of printed educational information on conservation and drought contingency geared for children and adults. Information is available in English and Spanish. Information promoting drought contingency awareness will be included in the Water Quality Report made available to the public on the HWWS website.

HWWS will continue to participate in various community events on an annual basis and will distribute printed information and promotional items on water conservation and drought contingency awareness. Ad hoc educational tours of the water plants will include discussion of the importance and recommended practices for water conservation.

Sec. 48-140 Coordination with Regional Water Planning Groups

The service areas of HWWS and its wholesale customers are located within the Rio Grande Region M Planning Group area. HWWS has provided a copy of this adopted Plan to Region M, and a copy of the transmittal letter is presented in Appendix 1.

Sec. 48-141 Authorization

The General Manager of HWWS, or his/her appointed designee, (collectively the “General Manager” hereinafter, but only to the extent the designee has express authorization by the General Manager to take the action so delegated), is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The General Manager shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Sec. 48-142 Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing potable water provided by HWWS. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

The Plan shall apply to Wholesale customers to the extent allowed and enforceable under the terms of current wholesale contracts and State regulation.

Sec. 48-143 Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic Water Use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.
Commercial and Institutional Water Use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels, and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by HWWS.

Domestic Water Use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even Number Address: street address, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, 8 and locations without addresses.

Industrial Water Use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape Irrigation Use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-Essential Water Use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:
  a. Irrigation of landscape areas, including parks, athletic fields, and golf course, except otherwise provided under this Plan;
  b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle;
  c. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  d. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
  e. Flushing gutters or permitting water to run or accumulate in any gutter or street;
  f. Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
  g. Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
h. Loss of water because of failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

i. Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd Numbered Address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Sec, 48 – 144 Criteria for Initiation and Termination of Drought and Emergency Response Stages

Drought and Emergency Response Criteria. The General Manager shall monitor water supply and/or demand conditions on a weekly basis and, with input from the HWWS Board of Trustees, shall determine when conditions warrant initiation or termination of each stage of the Plan.

The triggering criteria to be considered in the declaration and implementation of each Stage of the Plan are based on the following set of parameters:

- Percentage of US Capacity remaining in the Amistad and Falcon Reservoirs
- Percentage of actual days remaining in the year vs. projected days of water rights remaining
- Percentage of sustained demand vs. total functional treatment capacity
- Failure of critical water conveyance, treatment, or storage infrastructure
- Contamination of raw source water

Initiation. The General Manager is authorized to order the implementation of a drought and emergency response stage when one or more of the triggering criteria for the stage are met, and shall have discretion not to order such implementation even though one or more of the triggering criteria are met. Factors that could influence such a decision may include, without limitation, the time of year, weather conditions, and the anticipation of replenished water supplies.

For each stage, customers shall be required to comply with the applicable requirements and restrictions on water use when the General Manager determines the drought and emergency response for a given stage should be implemented based on consideration of triggering criteria.

STAGE 1 Triggers – MODERATE Water Shortage Conditions

- Combined volume in Amistad and Falcon Reservoirs is below 15% of US capacity
- Days remaining in the year are more than 80% of projected days of water rights remaining
- 3-day average water demand exceeds 90% of total functional treatment capacity
STAGE 2 Triggers – SEVERE Water Shortage Conditions

- Combined volume in Amistad and Falcon Reservoirs is below 10% of US capacity
- Days remaining in the year are more than 90% of projected days of water rights remaining
- 3-day average water demand exceeds 95% of total functional treatment capacity

STAGE 3 Triggers – EMERGENCY Water Shortage Conditions

- Major water conveyance, pumping, treatment, or storage infrastructure failures occur, which cause unprecedented loss of capability to provide water service
- Natural or man-made contamination of the water supply source
- Combined volume in Amistad and Falcon Reservoirs is below 5% of US capacity
- Days remaining in the year are more than 100% of projected days of water rights remaining
- 1-day water demand exceeds 98% of total functional treatment capacity

Termination. The General Manager, at his discretion, may order or delay the termination of a drought and emergency response stage even though the conditions for termination of the stage are met. Factors which could influence such a decision may include, without limitation, the time of year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought and emergency response stage.

In general, a stage of the Plan may be terminated at the General Manager’s direction based on mitigation or cessation of triggering criteria for that stage, and upon termination, the preceding stage or the applicable response stage based on the triggering criteria, shall become operative.

Notification. Customer notification of the initiation or termination of drought and emergency response stages will be made by one or a combination of website postings, email transmissions, automated telephone callouts, or printed notices on customer bills. The news media will also be informed.

Alternative Water Sources. Upon initiation of the various drought and emergency response stages, HWWS will consider use of appropriate, alternative water sources and/or alternative delivery mechanisms including:

- Purchase of water and delivery through existing interconnections with neighboring systems
- Expanded use of reclaimed water for non-potable purposes

As a drought intensifies, other potential alternative sources will be evaluated.
Sec. 48 – 144 Drought and Emergency Water Management Response Stages

Upon reaching a triggering criteria indicative of water shortage condition as defined in the Plan, the General Manager shall implement the following notification procedures:

**Notification**

**Notification of Officials and Agencies:**
The General Manager shall notify directly, or cause to be notified directly, the following individuals and entities:

- HWWS Board of Trustees
- City Manager
- Mayor
- TCEQ (to be notified within five business days of the implementation of any mandatory provisions of the Drought Contingency and Emergency Water Management Plan)
- Fire Chief
- Wholesale customers
- Major retail water users
- Critical water users (hospitals, nursing homes, hospice, dialysis centers)

**Notification of the Public:**
The General Manager shall notify the public by means of one or more of the following:

- HWWS’s website
- Publication in a newspaper of general circulation
- Public service announcements through radio or television news stations
- Signs posted in public places
- Take-home fliers at schools

**Best Management Practices for Supply Management**

Additional measures that may be implemented by HWWS to manage limited water supplies and/or reduce water demand during each stage may include:

1. Minimization of system flushing while maintaining minimum standard disinfection residuals throughout the distribution system.
2. Maximizing and expanding deliveries of reclaimed water for non-potable uses.
3. Engage interconnects with neighboring water systems to maintain regulated minimum system pressure throughout the distribution system.

**STAGE 1 Response – MODERATE Water Shortage Conditions**
Target: Achieve a 10% reduction in total water use relative to the given month’s average for the preceding five years.

Water Use Restrictions for Demand Reduction

Retail Customers. The following water use restrictions shall apply to all persons within HWWS’s retail service area:

1. Irrigation of landscaped areas shall be limited to twice per week between the hours of 8:00 pm on the designated watering day to 10:00 am the following morning as outlined below except that watering of landscaped areas is permitted at any time if by means of a hand-held hose, a faucet filled bucket, or watering can of five gallons or less, or drip irrigation.
   - Residential addresses ending in an even number (0,2,4,6,8) may water on Wednesdays and Saturdays.
   - Residential addresses ending in an odd number (1,3,5,7,9) may water on Thursdays and Sundays.
   - All non-residential addresses including apartment complexes, hotels & motels, mobile home parks, commercial businesses, institutions, industry and manufacturing, and schools may water on Tuesdays and Fridays.

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to designated watering days. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health safety and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

3. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi type pools shall be limited to designated watering days.

4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes shall be limited to designated watering days except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

5. Use of water from fire hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may continue under standard permit from HWWS.

6. Use of potable water for the irrigation of golf course greens, tees, and fairways shall be limited to designated watering days. However, if the golf course utilizes a water source other than potable water provided by HWWS, the facility shall not be subject to these regulations.
7. Water customers are requested to practice water conservation and to minimize or discontinue water use for the following non-essential purposes:
   a. Wash down of any sidewalks, walkways, driveways parking lots, tennis courts, or other hard-surfaced areas.
   b. Use of water to wash down buildings or structures or purposes other than immediate fire protection.
   c. Use of water for dust control.
   d. Flushing gutters or permitting water to run or accumulate in any gutter or street.
   e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

**Wholesale Customers.** The following actions shall be taken with regard to wholesale customers:

1. The General Manager will request wholesale water customers to initiate measures to reduce non-essential water use in accordance with Stage 1 of the Plan for retail customers except that wholesale customers may use a different watering schedule provided that each service address is limited to a twice per week schedule.
2. The General Manager will initiate monthly contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of curtailment of water deliveries.
3. The General Manager will provide a report as necessary to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

**STAGE 2 Response – SEVERE Water Shortage Conditions**

*Target:* Achieve a 20% reduction in total water use relative to the given month’s average for the preceding five years.

**Water Use Restrictions for Demand Reduction.**

**Retail Customers.** All requirements of Stage 1 shall be in effect during Stage 2 except:

1. All means of irrigation of landscaped areas shall be limited to *once per week* between the hours of 8:00 pm on the designated watering day to 8:00 am the following morning as outlined below.
   - All addresses may water as follows:
     
     | Address | Watering Day |
     |---------|--------------|
     | Ending  |              |
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to **weekend days** for personal vehicles and to **Wednesdays** for non-personal, business-related vehicles. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station.

3. Use of water to fill, refill, or add to an indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools shall be limited to designated watering days.

4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except when necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

5. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued except for the amount necessary for the actual construction of structures.

6. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than potable water provided by HWWS. Greens and fairways may be watered only on designated watering days between the hours of 8:00 pm on the designated watering day to 8:00 am of the following day.

7. The following uses of water are defined as non-essential and are prohibited:
   a. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
   b. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
   c. Use of water for dust control;
   d. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
   e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s)

*Wholesale Customers.* The following actions shall be taken with regard to wholesale customers:
1. The General Manager will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use in accordance with Stage 2 of the Plan for retail customers except that wholesale customers may use a different watering schedule provided that each service address is limited to a once per week schedule.

2. The General Manager will further prepare for the implementation of curtailment of water deliveries by preparing a monthly water usage allocation baseline for each wholesale customer.

3. The General Manager will provide a report as necessary to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

**STAGE 3 Response – EMERGENCY Water Shortage Conditions**

*Drought Conditions Target:* Achieve a 30% or greater reduction in total water use relative to the given month’s average for the preceding five years.

*Emergency Conditions Target:* Achieve a reduction of water demand sufficient to avoid a drop in system pressure below regulated minimums.

**Water Use Restrictions for Reducing Demand**

*Retail Customers.* All requirements of Stage 2 shall be in effect during Stage 3 except:

1. Irrigation of landscaped areas is absolutely prohibited. All outdoor uses of water are prohibited except for the direct need to protect and preserve the health, safety, and welfare of the public.

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is absolutely prohibited except that such washing may be done at any time on the immediate premises of a commercial car wash or commercial service station that recycles water to limit makeup water consumption to a minor fraction of total wash water volume.

3. Use of water to fill, refill, or add to indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.

4. The watering of golf course tees, fairways, and greens is prohibited unless the golf course utilizes a water source other than potable water provided by HWWS.

5. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to protect aquatic life.
6. As deemed necessary, the General Manager is authorized to deny any new, additional, expanded, or increased in size water service connections, meters, service lines, pipelines extensions, or water service facilities.

**Wholesale Customers.** The following actions shall be taken with regard to wholesale customers:

1. Assess the severity of the problem and identify the actions needed and time required to solve the problem.

2. Inform the utility director or other responsible official of each wholesale water customer by telephone or in person and suggest actions, as appropriate, to alleviate problems including initiation of additional mandatory measures to reduce non-essential water use in accordance with Stage 3 of the Plan for retail customers.

3. The General Manager may also initiate curtailment of water deliveries in accordance with Texas Water Code, §11.039. During any period when Stage 3 is in effect, the General Manager is authorized to curtail wholesale customers’ water allocation to 70 percent of that month’s average for the prior five-year period.

   Wholesale customers exceeding their allocation shall pay the following surcharge on excess water deliveries:

   1. 25 times the contract rate for first 15% over allocation
   2. 5 times the current rate for the next 15% over allocation
   3. 2.0 times the current rate for the next 15% over allocation
   4. 2.5 times the current rate for use more than 45% over allocation

4. If appropriate, notify city, county, and/or state emergency response officials for assistance.

5. Undertake necessary actions, including repairs and/or clean-up as needed.


**Sec. 48 – 145 Contract Provisions for Wholesale Customers**

HWWS will include a provision in every wholesale water contract entered into or renewed after adoption of the Plan, including contract extensions, that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.
Sec. 48 – 146 Enforcement

**Retail Customers Only**

Mandatory water use restrictions, curtailment, or pro rata allocation of available water supplies may be imposed during drought and emergency response stages. These water use restrictions will be enforced by warnings and penalties as follows:

1. On the first violation, customers will be notified by written notice that they have violated the mandatory water use restriction.

2. If the first violation recurs or has not been corrected after ten (10) days from the written notice, HWWS may assess a civil penalty with remedies being a fine up to $200 per violation, payable to HWWS. Non-payment of fines will result in surcharges, in the amount of the fine, assessed to the customer’s water utility bill.

3. Any surcharge assessed to the customer’s water utility bill will be in addition to the regular water utility bill amount. HWWS maintains the right, at any violation or action level, to disconnect irrigation systems and/or suspend water services to a customer for failure to pay the surcharge or public safety issues with reconnection fees and possible citations.

4. Subsequent violations of the Plan shall result in increased civil penalty with remedies being fines up to a maximum of 1,000 dollars or upon the occurrence of three (3) violations, after notice, the discontinuation of services. Services discontinued under this provision shall be restored only upon payment of unpaid fines, surcharges, disconnection and reconnection fees, and any other costs incurred by the utility in discontinuing service.

5. Any customer who is the subject of enforcement actions under the provisions of this section may appeal to the HWWS Board of Trustees pursuant to the appeal and appeal hearing process established herein.

6. The appellant must file a written notice of appeal with the General Manager of HWWS within 15 calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant and must also contain a reasonably detailed statement regarding the action being appealed, who took the action, what the appellant contends was wrong with the action, and what relief is being sought.

7. Within 15 calendar days or receipt of the written notice, the HWWS Board of Trustees must notify the appellant of the date of a hearing to hear the appeal. The HWWS Board of Trustees may itself conduct the hearing or may designate any three of its members to conduct the hearing and make recommendation to the full Board of Trustees. The hearing shall be conducted according to the procedure provided herein, unless otherwise agreed in writing within ten calendar days of the hearing. The appellant has the right to appeal the decision of the Board of Trustees to the City Commission by filing a written notice with the City Manager within 10 calendar days of receipt of the decision of the Board.
of Trustees. The decision of the Board of Trustees will be reversed only upon a vote of at least four city commissioners in favor of reversal.

8. The following procedures shall be followed for an appeal to Board of Trustees:

a. A notice shall be served on the appellant specifying the time and place of a hearing to be held by the HWWS Board of Trustees, regarding the appeal. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten calendar days before the hearing. Service may be made on any agent or officer of a corporation.

b. The HWWS Board of Trustees may issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

c. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically or electronically. The party requesting stenographic recording shall be responsible for all arrangements and payment. The transcript, so recorded, will be made available to any member of the public or any party to the hearing, upon payment of the usual charges thereof.

Sec. 48–147 Variances

Retail Customers

The General Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with HWWS within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the General Manager and shall include the following:

1. Name and address of the petitioner(s).

2. Purpose of water use.

3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
4. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.

5. Description of the relief requested.

6. Period of time for which the variance is sought.

7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.

8. Other pertinent information.

**Wholesale Customers**

The General Manager may, in writing, grant a temporary variance to the curtailment or pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the General Manager within five (5) days after curtailment or pro rata allocation has been invoked. All petitions for variances shall be reviewed by the HWWS Board of Trustees and shall include the following:

1. Name and address of the petitioner(s)

2. Detailed statement with supporting data and information as to how the curtailment or pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.

3. Description of the relief requested.

4. Period of time for which the variance is sought.

5. Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.

6. Other pertinent information.

Variances granted by the HWWS Board of Trustees shall be subject to the following conditions, unless waived or modified by the Board:

1. Variances granted shall include a timetable for compliance.
2. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Sec. 48 – 148 Plan Review and Update

HWWS will review and update the Plan by May 1, 2024 and every five years thereafter to coincide with planning efforts of the Region M Water Planning Group.

Sec. 48 – 149 List of Appendices

AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Consider and take action to approve a request from Dora Castaneda to close Van Buren Avenue at West Street (north and South), West Street at Van Buren Avenue (north and south), Van Buren Avenue at “C” Street (north and south) and Van Buren Avenue at “D” Street (north and south) for Small Business Saturday Market Place event being held on Saturday, November 30, 2019 from 5:00 p.m. to 10:00 p.m.

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

Brief Summary:
Dora Castaneda, owner of Procured Life and Home is requesting the closure of Van Buren Avenue at West Street (north and South), West Street at Van Buren Avenue (north and south), Van Buren Avenue at “C” Street (north and south) and Van Buren Avenue at “D” Street (north and south) for Small Business Saturday Market Place event being held on Saturday, November 30, 2019 from 5:00 p.m. to 10:00 p.m. The street closures will help to ensure the safety of the visitors attending this event.

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

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

Finance Director’s approval:

Staff Recommendation:
Staff recommends approval.

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

City Manager’s approval:

Comments:

City Attorney’s approval:

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

FROM: District Representative

RE: Street Closure Request

REQUESTOR: Dora Castaneda, 956-536-0100

EVENT NAME: Small Business Saturday Marketplace

DATES AND TIMES: November 30th, 2019 5:00 Pm – 10:00 Pm

LOCATION: Van Buren Ave From West thru D St, Harlingen, TX 78550

DESCRIPTION: Small Business Saturday Marketplace is scheduled for November 30th, 2019 from 5:00 pm – 10:00 pm from Van Buren Ave. from West St thru D St. Dora L. Castaneda is requesting the Street Closure for this event and public safety.

1) Van Buren Ave. at West St North and South
2) West St at Van Buren North and South
3) Van Buren Ave. at C St North and South
4) Van Buren Ave. at D St North and South

COMMENTS/NOTES: The streets will be closed for the safety of the public in attendance. Contact has been made with the Event Coordinator and was advised that it would be their responsibility to set up and break down the Barricades.

RECOMMENDATION: Approve

SIGNED:

NOTES: RECOMMENDATION: Approve

SIGNATURE DATE
OFFICER / EMPLOYEE

SERGEANT / SUPERVISOR

COMMANDER / MANAGER

DEPUTY CHIEF

ASSISTANT CHIEF

CHIEF OF POLICE

9-26-19

9/27/2019

9/27/19

9/27/19

9/27/19

9-30-19
Event Proposal

Small Business Saturday Marketplace

I Dora L. Castaneda owner of Procured Life and Home am requesting permission from the City commission of Harlingen, for a street closure and use of restroom facilities during Small Business Saturday.

Event Details

Event Name: Small Business Saturday Marketplace
Date: November 30, 2019
Time: 5-10 PM
Projected # of attendants: 200
Streets proposed for closure: West thru D streets north to south
HFD has no issues with these closures.

Eduardo Alvarez  
Assistant Fire Chief  
Harlingen Fire Department  
24200 N. FM 509  
Harlingen, TX 78550  
956-897-1131

Good Morning Asst. Fire Chief Alvarez:

I would ask if you could please review the attached street closure request and provide your recommendation at your earliest convenience so that I can include as an agenda item at the next City Commission meeting.

Thank you for your assistance in this matter!

Frances Peña, Executive Admin. Assistant  
Office of the Chief of Police Michael Kester  
HARLINGEN POLICE DEPT.  
1018 Fair Park Blvd., Harlingen, TX 78550  
(956) 216-5403 office / (956) 216-5407 fax  
email: francespena2@harlingenpolice.com

This email & the documents that accompany this email may contain information belonging to the sender, which is legally privileged. The information is intended only for the use of the individual or entity stated in this email. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this email information is strictly forbidden and prohibited. If you have received this email in error, please immediately notify us by telephone to arrange for the disposition of the original documents.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: 10/16/19

| Agenda Item: |
| Consider and take action to approve a “Food for Fines” drive at the Library. |

| Prepared By (Print Name): | Dauna Campbell |
| Title: | Library Director |
| Signature: | [Signature] |

| Brief Summary: |
| Patrons of Harlingen Public Library will have an opportunity to help the less fortunate and help themselves out of library fines with a “Food for Fines” drive from November 1st through November 24th. “Food for Fines” will allow library users to substitute one can of food for each dollar they owe in overdue fines with a maximum of ten dollars waived. All donations will be donated to Loaves and Fishes Food Pantry. |

| Funding (if applicable): |
| [ ] Yes [ ] No |

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

| Staff Recommendation: |
| It is recommended that Commission approve the library’s “Food for Fines”. |

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

| Comments: |
| |

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


November 1st – 24th, 2019

Late fees forgiven for food donations.

Bring canned or dry foods to the Circulation desk.

Each item donated gets $1.00 off your late fees for returned items. Not to exceed $10.00*

**Items donated to Loaves & Fishes.**

Non-perishables only, no glass containers, no repackaged or expired food.

*not applicable to lost/damaged items.
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Presentation of the City of Harlingen's efforts to pursue the 2020 All-American City Award.

Prepared By: J. Joel Garza Jr, CPM
Title: Director of Special Projects
Signature:

Brief Summary:

Summary

In efforts to showcase what Harlingen has to offer, the City of Harlingen will apply to the National Civic League’s 2020 All-American City Award. The award recognizes communities that leverage civic engagement, collaboration, inclusiveness and innovation to successfully address local issues. This year’s theme is “Enhancing Health & Well-being Through Civic Engagement”.

The Letter of Intent is due November 1, 2019 with the full application due February 19, 2020.

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:

Staff Recommendation:

City Manager’s approval:

Comments:

City Attorney’s approval:

form revised 04/29/09
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: Tuesday, October 22, 2019

Agenda Item:

Consider and take action authorizing the Mayor, City of Harlingen, to execute Government Lease No. 697DCM-19-L-00206 Airport Surveillance Radar (ASR) Site and Easements between the Federal Aviation Administration (FAA) and City of Harlingen granting the FAA use of land rights at no-cost for a 15-year term.

Prepared By: Marv Esterly
Title: Director of Aviation
Signature:

Brief Summary:

The Federal Aviation Administration’s lease provides a landsite for an Airport Surveillance Radar (ASR) Site and Easements on the City of Harlingen’s property. The lease grants the FAA use of land rights at no-cost for a 15-year term.

Funding (if applicable):

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

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

Finance Director’s approval:

Yes No N/A

Staff Recommendation:

The airport staff recommends the City Commission authorize the Mayor, City of Harlingen, to execute Government Lease No. 697DCM-19-L-00206 Airport Surveillance Radar (ASR) Site and Easements between the Federal Aviation Administration and the City of Harlingen granting the FAA use of land rights at no-cost for a 15-year term.

City Manager’s approval:

Yes No N/A

Comments:

City Attorney’s approval:

Yes No N/A

form revised 01/26/09
Bryan Wren
Assistant Director of Aviation
3002 Heritage Way, 3rd Floor
Harlingen, TX 78550

Dear Mr. Wren:

Subject: Expiring Lease No. DTFASW-05-L-00015

Succeeding Lease No. 697DCM-19-L-00206

(HRL) Airport Surveillance Radar (ASR) Site and Easements
Harlingen, Texas

The Federal Aviation Administration’s (FAA) Lease No. DTFASW-05-L-00015 providing a land site for an Airport Surveillance Radar (ASR) facility and easements on your property in Harlingen, TX expires on its own terms September 30, 2019. The FAA has an ongoing need to occupy the premises.

Per your email communication on August 7, 2019 with Ms. Mariah Perez of our Contract Support Staff, enclosed are three copies of Lease No. 697DCM-19-L-00206 granting the FAA use of land rights at no-cost for a 15-year term.

Please have all copies signed and dated, complete the Public Authorization Certificate, and have the Certificate of Acknowledgment completed by a Notary and return all copies in the enclosed postage paid envelope. When received, a fully executed copy will be returned to you for your records.

If you require additional information, please contact me at 817-222-4317 or via email at thomas.kewitt@faa.gov.

Sincerely,

[Signature]

Thomas R. Kewitt
Real Estate Contracting Officer

Enclosures (3)
LAND LEASE

Between

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

And

CITY OF HARLINGEN, TEXAS

Lease No. 697DCM-19-L-00206
(HRL) ASR
Harlingen, TX

SECTION 1 - OPENING

6.1.1 Preamble (JAN 2017)

This Lease is hereby entered into by and between City of Harlingen, Texas, hereinafter referred to as the Lessor and the United States of America, acting by and through the Federal Aviation Administration, hereinafter referred to as the Government. The terms and provisions of this Lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

For purposes of this Lease, the terms Contractor and Lessor are interchangeable with each other.

6.1.2 Succeeding Lease (JAN 2015)

This Lease succeeds Lease No. DTVASW-95-L-00015 and all other previous agreements between the parties for the leased property described in this document.

6.1.3 Witnesseth (JAN 2015)

Witnesseth: The parties hereto, for the consideration hereinafter mentioned covenant and agree as follows:

6.1.4-1 Premises (FEB 2019)

The Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises:
Lease No. 697DCM-19-L-00206
(HRL) ASR
Harlingen, Texas

AIRPORT SURVEILLANCE RADAR (ASR) SITE
AND ENTRANCE ACCESS

A tract of land described as .42 acres out of 200.56-acre tract from Tony Butler Golf Course in a portion of Survey 43, Hall & Porter Subdivision, as recorded in Cameron County Map Records and more particularly located and described as follows:

Beginning at a concrete monument being in the northeast line of the Harlingen Irrigation District Cameron County Number one Canal Right of Way, said monument also being in the southeast line of the Harlingen Tony Butler Golf Course 200.56 acre tract, said point being N 36°57'16" W, 71.69 feet from an iron bar in the northwest bank of Arroyo Colorado and being the south corner of the said golf course; THENCE, N 27°11'53" E, 57.02 feet to a concrete monument; THENCE, N 70°48'07" W, 71.69 feet to a concrete monument; THENCE, N 19°11'53" E, 120.00 feet to a concrete monument; THENCE, S 70°48'07" E at 130.00 feet to a concrete monument and in all 130.00 feet to a point; THENCE, S 19°11'53" W, 120.00 feet to a point; THENCE, N 70°48'07" W, 10.00 feet to a concrete monument; THENCE, S 27°11'53" W, 82.02 feet to a concrete monument; THENCE, N 36°57'16" W, 44.45 feet to the POINT OF BEGINNING.

Containing 0.42 acres more or less.

UTILITY EASEMENT

The centerline of a 25.00 feet wide utility easement out of the Harlingen Tony Butler Golf Course 200.56 acre tract out of a portion of Survey 43 and Block 1, Hall & Porter Subdivision Cameron County, Texas; according to Volume 4, Page 28, of the Map Records of Cameron County, Texas; said 200.56 acre tract according to survey dated October 23, 1974; the centerline of said 25.00 feet wide easement being more particularly described as follows:

COMMENCING at the Southernmost corner of said Tony Butler Golf Course 200.56 acre tract; said corner also, being at a point on the East right of way line of the Harlingen Irrigation District Cameron County Number One Canal Right of Way; said corner being marked by a 5/8 inch diameter iron bar; THENCE, N 36°57'16" W, with and along the contiguous East right of way line of said canal right of way and the West line of said 200.56 acre tract, a distance of 71.69 feet to a point; said point being on the Northwest corner of a certain 0.064 acre tract out of said 200.56 acre tract; said corner being marked by a 5/8 inch diameter iron bar; THENCE, N 27°11'53" E, with and along the North line of said 0.064 acre tract; a distance of 13.89 feet to the point of beginning of the centerline of said 25.00 feet wide easement; said point being marked by a 1/2 inch diameter iron bar; THENCE, N 36°57'16" W, parallel to and 12.5 feet Easterly of the contiguous East right of way line of said canal right of way and West line of said 200.56 acre tract; with and along the centerline of said 25.00 feet wide easement, a distance of 207.56 feet to a point; said point being marked by a 1/2 inch diameter iron bar; THENCE, N 11°44'02" W, parallel to and 12.5 feet Easterly of the contiguous East right of way line of said canal right of way and West line of said 200.56 acre tract; with and along the centerline of said 25.00 feet wide easement, a distance of 227.10 feet to a point; said point being marked by a 1/2 inch diameter iron bar; THENCE, N 10°44'02" W, parallel to and 12.5 feet Easterly of the contiguous East right of way line of said canal right of way and West line of said 200.56 acre tract, with and
along the centerline of said 25.00 feet wide easement, a distance of 2,000.24 feet to the POINT OF BEGINNING of the centerline of said 25.0 feet wide utility easement.

Containing 0.064 acres more or less.

DRAINAGE EASEMENT

A tract of land .293 acres from a 200.56 acre tract of the Hall & Porter Subdivision for the Harlingen Municipal Golf Course as recorded in the Cameron County Map of Records described as follows:

BEGINNING at a concrete monument being in the northeast line of the Harlingen Irrigation District Cameron County Number One Canal Right of Way, said monument also being in the southeast line of the Harlingen Tony Butler Golf Course 200.56 acre tract, said point being N 36°57'16" W, 71.69 feet from an iron bar in the northwest bank of the Arroyo Colorado and being the south corner of the said golf course; THENCE, N 36°57'16" W, 146.50 feet to a point; THENCE, N 19°11'53" E, 94.86 feet to a point, THENCE, S 70°48'07" E, 50.00 feet to a concrete monument; THENCE, S 19°11'53" W, 120.00 feet to a concrete monument; THENCE, S70°48'07" E, 168.30 feet to a point; THENCE, S40°14'22" W, 60.59 feet to a point; THENCE, N70°48'07" W, 74.90 feet to the POINT OF BEGINNING.

Containing 0.293 acres more or less.

A. Together with a right-of-way for ingress to and egress from the premises (for Government employees, their agents and assigns); a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over said lands and adjoining lands of the Lessor, and unless herein described otherwise, shall be reasonably determined by the Government as the most convenient route.

B. And the right of grading, conditioning, installing drainage facilities, seeding the soil of the premises, and the removal of all obstructions from the premises that may constitute a hindrance to the establishment and maintenance of Government facilities.

C. And the right to make alterations, attach fixtures, erect additions, structures, or signs, in or upon the premises hereby leased. All alterations and additions are and will remain the property of the Government.

D. The Lessor agrees that it will not cut down, trim, or remove any trees within 1,200 feet, 360 degrees around, from the center of the ASR radar tower in order to prevent flat surface reflections during radar operations.
SECTION 2 - TERMS

6.2.5 Term (AUG 2002)

To have and to hold, for the term commencing on October 1, 2019 and continuing through September 30, 2034 inclusive, provided that adequate appropriations are available from year to year for the consideration herein.

6.2.6 Consideration (No Cost) (JUL 2017)

The Government shall pay the City of Harlingen, Texas no monetary consideration in the form of rental. It is mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises hereby leased.

6.2.7 Cancellation (JUL 2017)

The Government may terminate this Lease at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by certified mail return receipt requested and mailed at least 30 days before the effective termination date.

6.2.14 Holdover (JUL 2017)

If after the expiration of the Lease, the Government shall retain possession of the premises, the Lease shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Lease, in arrears on a prorated basis, at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new Lease with the Lessor, acquired the property in fee, or vacated the premises.

6.2.16 Lessor’s Successors (JUL 2017)

The terms and provisions of this Lease and the conditions herein bind the Lessor and the Lessor’s heirs, executors, administrators, successors, and assigns.

SECTION 3 - GENERAL CLAUSES

3.2.5-1 RE Officials Not to Benefit (OCT 1996)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation’s general benefit.
3.3.1-15-RE Assignment of Claims (OCT 1996)

Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 6305 the Lessor may assign its rights to be paid under this lease.

6.3.18 Non-Restoration (JUL 2017)

It is hereby agreed between the parties that, upon termination of its occupancy (due to termination or expiration of the Lease), the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property that is the subject of this lease, including any holdover period. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor.

6.3.25 Quiet Enjoyment (OCT 1996)

The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

6.3.33 Covenant Against Contingent Fees (AUG 2002)

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

6.3.34 Anti-Kickback - Real Property (JAN 2017)

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58), prohibits any person from: (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to the United States Government or in the contract price charged by a subcontractor to a prime contractor or higher tier subcontractor.

6.3.35 Examination of Records (AUG 2002)

The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until three (3) years after final payment under this contract have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.
6.3.36 Subordination, Nondisturbance and Attornment (JAN 2017)

A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this Lease. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this Lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this Lease so long as the Government is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this Lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this Lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.
6.3.37 Notification of Change in Ownership or Control of Land (JUL 2017)

If the Lessor sells, dies or becomes incapacitated, or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the Government shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the change in property rights. Concurrent with the written notification, the Lessor or Lessor's heirs, representatives, assignees, or trustees shall provide the Government copies of the associated legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.

6.3.45 Contract Disputes - Real Property (JAN 2017)

All contract disputes arising under or related to this Lease will be resolved through the FAA dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and will apply only to final agency decisions. A Lessor may seek review of a final Government decision only after its administrative remedies have been exhausted.

All contract disputes will be in writing and will be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Avenue, S.W., Room 323
Washington, DC 20591
Telephone: (202) 267-3290

A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

SECTION 10 – CLOSING

6.10.1 Notices (JUL 2017)

All notices/correspondence shall be in writing, referencing to the Lease number, and be addressed as follows:
Lease No. 697DCM-19-L-00206
(HRL) ASR
Harlingen, Texas

TO THE LESSOR: TO GOVERNMENT:
City of Harlingen Federal Aviation Administration
P.O. Box 2207 Real Estate Branch, AAQ-920
Harlingen, TX 78551 10101 Hillwood Parkway

6.10.3 Signature Block (JUL 2017)

This Lease shall become effective when it is fully executed by all parties.

In witness whereof, the parties hereto have signed their names.

CITY OF HARLINGEN, TEXAS UNITED STATES OF AMERICA

By: ____________________________ By: ____________________________
Christopher H. Boswell Thomas R. Kewitt
Mayor Real Estate Contracting Officer
Date: __________________________

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _TEXAS
COUNTY OF __________

On this, the ______ day of __________, 20__, before me, ____________________________________________________________,
the undersigned Notary Public, personally appeared Christopher H. Boswell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that (he/she) executed the same for the purposes therein contained.

Notary Public

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _TEXAS
COUNTY OF __________

On this, the ______ day of __________, 20__, before me, ____________________________________________________________,
the undersigned Notary Public, personally appeared Thomas R. Kewitt, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that (he/she) executed the same for the purposes therein contained.

Notary Public
PUBLIC AUTHORIZATION CERTIFICATE

On this _____ day of ____________, 20___, I, _______ certify that I am the _______ of the ________________ named in the attached agreement; that _______ who signed said agreement on behalf of the ________________ is ________________ of said ________________; that said agreement was duly signed for and on behalf of _______ ________________ by authority of its governing body, and is within the scope of its powers.

Signed ___________________________
**AGENDA ITEM**
**EXECUTIVE SUMMARY**

Meeting Date: 10/9/2019

<table>
<thead>
<tr>
<th>Agenda Item:</th>
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<tbody>
<tr>
<td>Public hearing and take action to consider an Ordinance on First Reading for a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft. in a Single Family Residential (R1) District for Lot 11 Block 153, Harlingen Original Townsite Subdivision located at 218 W. Lincoln Ave. Applicant: Magdalena &amp; Jesus Peralta</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Prepared By:</th>
<th>Xavier Cervantes, AICP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td>Planning and Development Director</td>
</tr>
<tr>
<td>Signature:</td>
<td>[Signature]</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Brief Summary:</th>
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<tbody>
<tr>
<td><strong>Project Timeline</strong></td>
</tr>
<tr>
<td>- <strong>February 26, 2019</strong> – Code Compliance notified the owner of the construction without a building permit.</td>
</tr>
<tr>
<td>- <strong>August 27, 2019</strong> – Specific Use Permit (SUP) application submitted to Planning Department (ATTACHMENT I).</td>
</tr>
<tr>
<td>- <strong>August 31, 2019</strong> – Notice of SUP application for storage building greater than 144 sq. ft was published in the Valley Morning Star and notices of applications were sent to all property owners within 200 ft. of subject property.</td>
</tr>
<tr>
<td>- <strong>September 1, 2019</strong> – Written opposition was received by the Planning Department which requires consideration by the Planning and Zoning Commission.</td>
</tr>
<tr>
<td>- <strong>September 28, 2019</strong> – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 ft. of subject property.</td>
</tr>
<tr>
<td>- <strong>October 9, 2019</strong> – Public hearing was conducted by the Planning and Zoning Commission (P&amp;Z). The P&amp;Z Commission recommended approval of the Specific Use Permit based on Staff’s recommendation by a 3 to 0 vote.</td>
</tr>
<tr>
<td>- <strong>October 22, 2019</strong> – Public hearing and consideration of the rezoning request via 1st ordinance reading scheduled before the City Commission.</td>
</tr>
<tr>
<td>- <strong>November 6, 2019</strong> – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Summary</th>
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<tbody>
<tr>
<td>- Per Code of Ordinances Section 111-62, an SUP for a storage building greater than 144 sq. ft. can be processed administratively if there are no written complaints within 10 days of the publication. If a written complaint is received, the SUP requires approval by the City Commission. The applicant is requesting a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft.</td>
</tr>
<tr>
<td>- The subject property has 50 ft. of frontage along W. Lincoln Ave. and a depth of 140 ft. There is currently a two-story single family residence on the property and an unfinished 15.58 ft. wide by 26 ft. in length two-story accessory building. The first floor of the storage building is 298.3 and the second floor is 403 sq. ft. totaling 701.3 sq. ft.</td>
</tr>
</tbody>
</table>
• According to the applicant, the two-story building will be used for storage of miscellaneous items used by the family only. (ATTACHMENT II-IV)

• The adjacent property to the east is occupied with a single family residence. There is also an accessory structure that is located approximately 5ft. from the west side property line.

• On February 26, 2019, Code Compliance issued a citation for constructing without a building permit and not obtaining a Specific Use Permit (SUP). Based on information received from the property owner the storage building was encroaching into the 5 ft. side yard setback. Subsequently, a variance application was submitted by the property owner. (ATTACHEMENT V)

• On August 22, 2019, a variance was approved by the Zoning Board of Adjustments which allows the applicant to apply for an SUP and move forward with the project. (ATTACHMENT V)

• An accessory building as defined in the Zoning Ordinance is a detached subordinate building used for a purpose customarily incidental to the main structure, including, but not limited to, a private garage for automobile storage, greenhouse as a hobby, home workshop, children's playhouse, garden shelter, but not involving the conduct of a business. (ATTACHMENT VII-IX)

• Storage building is a building primarily for the use or storage of goods and/or provisions not including hazardous chemicals or dangerous materials.

• The building cannot be used as a living space. If the SUP is approved; the applicant is still required to submit a building permit with the Building and Inspections Department.

• The City of Harlingen Building Inspections, Health, Fire Prevention, Engineering, Building and Inspections, reviewed the SUP application. The departments reported no objection to the proposed request subject to adhering to the Harlingen Code of Ordinances and procedures administered by each department. (ATTACHMENT VII-XI)

• On September 1, 2019, the Planning and Zoning Department received one (1) letter in opposition which required the public hearing process for the SUP. (ATTACHMENT XII)

• On October 2, 2019, the Planning and Zoning Department received two (2) phone calls in support of the SUP.

• In accordance with the Code of Ordinances, the P&Z and City Commission may impose requirements and conditions of approval as are needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.

**Funding (if applicable):**
**Staff Recommendation:**

Staff recommends **approval** of the request subject to:

1. Storage building being used primarily for the use or storage of goods and/or provisions not including hazardous chemicals or dangerous materials.
2. The storage building cannot be used as a living space; and
3. Complying with the requirements administered by Planning and Zoning, Building Inspections, and Fire Prevention.

City Manager's approval:

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
</table>

**Comments:**

City Attorney's approval:

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
</table>

10/18/19
CITY OF HARLINGEN PLANNING AND ZONING DIVISION
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address: 218 W. Lincoln Ave  Nearest Intersection: S "B" St. & W. Lincoln
(Proposed) Subdivision Name: Harlingen Original Townsite  Lot 11  Block 153
Existing Zoning Designation: R-1  Future Land Use Plan Designation: Residential

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)
Applicant/Authorized Agent: María Elena Peralta
Phone: 936-452-96  FAX
Mailing Address: 218 W. Lincoln Ave  City: Harlingen  State: TX  Zip: 78550

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

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

Please provide a basic description of the proposed project: Storage building greater than 1,445 sq. ft.

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

Applicant's Signature: ___________________________ Date: 08-27-2019

Property Owner(s) Signature: ___________________________ Date: 08-27-2019
Request for a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft. in a Single Family Residential (R1) District located at 218 W. Lincoln Ave., Lot 11 Block 153, Harlingen Original Townsite Subdivision. Applicant: Magdalena & Jesus Peralta
IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

 Personally appeared before me, the undersigned authority, the undersigned officer, who after being duly sworn, deposes and says that he/she has good reason to believe and does believe, that the defendant hereinafter named, on the date of the offense shown below and before the making and filing of this complaint, did then and there violate the law in the particulars hereinafter specified:

Date: February 26, 2019  Time: 10:45  a.m. p.m.

To: MAGDALENA PERALTA  TDL#

Address: 218 W LINCOLN

City: HARLINGEN  State: TEXAS  Zip Code: 78550

Physical address of violation: 218 W LINCOLN

Warning: You are hereby cited to appear in Municipal Court to answer to the following violation(s):

☐ Encroachment on Property Line, Sec. 40-6

☒ Overgrown Grass/High Weeds Sec. 30-14, Sec. 103-35, Sec. 302

☐ Rubbish & Garbage, 2012 IPMC Sec. 30

☐ Maintenance of Alleys Sec. 30-40

☐ On Street Parking, Sec. 111-142

☐ Junk Vehicles Sec. 32-114, Sec. 32-52

☐ Mobile Vendors, Special Events, Sec. 111-337

☐ Illegal Dumping Sec. 38-4

☐ Other:

Comments: STRUCUTURE IS LARGER THAN 500 SQUARE FEET

IN A RESIDENTIAL ZONE AND NO SPECIAL USE PERMIT

WAS OBTAINED.

THIS IS NOT A PLEA OF GUILTY

I agree to appear as directed

X

COURT SETTING TIME

3/9 1:00 p.m. on or before the 3rd day of APRIL 2019 to answer to or arrange for the trial of the above charge(s).

LIONEL ZUNDA ID # 4346

Code Enforcement Officer

Sworn to and subscribed before me by Affiant, this the day of

(Deputy) Clerk of the City of Harlingen, Cameron County, Texas

No. 6918
August 22, 2019

Magdalena and Jesus Peralta
218 W. Lincoln Ave.
Harlingen, TX 78550

RE: PETITION TO PETITION TO ALLOW AN ENCROACHMENT OF 2 FT. INTO THE REQUIRED 5 FT. SIDE YARD SETBACK FOR A CONSTRUCTED TWO STORY STORAGE BUILDING IN A SINGLE FAMILY RESIDENTIAL ("R1") DISTRICT, LOCATED AT 218 W. LINCOLN AVE., BEARING A LEGAL DESCRIPTION OF LOT 11 BLOCK 153, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION. APPLICANT: MAGDALENA & JESUS PERALTA.

Magdalena and Jesus Peralta,

This letter is to inform you that the Zoning Board of Adjustments at their meeting of August 21, 2019 voted to approve the abovementioned request.

If you have any questions regarding this matter, please contact me at 956.216.5101 or by email at agarces@myharlingen.us.

Sincerely,

Allan E. Garces
City Planner
SITE PLAN 1: 1/8

STORAGE FLOOR PLAN 1: 1/4

1ST. FLOOR
298.3 SQ. FT.
9' HIGH
PORCHE
105.9 SQ.FT.

2ND. FLOOR
403 SQ. FT.
8' HIGH

STORAGE FRONT ELEVATION

STORAGE LATERAL ELEVATION 1: 1/4

HOUSE FRONT ELEVATION 1: 1/4

HOUSE LATERAL ELEVATION
**Specific Use Permit ("SUP") Routing Slip**

<table>
<thead>
<tr>
<th>APPLICANT:</th>
<th>MAGDALENA &amp; JESUS PERALTA</th>
</tr>
</thead>
<tbody>
<tr>
<td>PHONE NO.:</td>
<td>956-561-4928 OR 956-893-2520</td>
</tr>
<tr>
<td>LOCATION:</td>
<td>218 W LINCOLN AVE., HRL, TX</td>
</tr>
<tr>
<td>PROJECT DESCRIPTION:</td>
<td>SUP FOR STORAGE BUILDING GREATER THAN 144 SQ. FT.</td>
</tr>
</tbody>
</table>

Department: Building Inspections Department

**Approval:**  

| YES | NO |

**Comments:**  
1. Require to apply for any and all applicable permits. (Re-occupancy, Building, Electrical, Plumbing, & Mechanical)  
2. Must comply with all applicable city ordinances, codes and standards before a final Certificate of Occupancy is issued.

**Signature:** Esmael Ortega Jr.  
**Date:** 9/4/19
## Specific Use Permit ("SUP") Routing Slip

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Magdalena &amp; Jesus Peralta</th>
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</thead>
<tbody>
<tr>
<td>Phone No.:</td>
<td>(956) 561-4928 or (956) 893-2520</td>
</tr>
<tr>
<td>Location:</td>
<td>218 W Lincoln</td>
</tr>
<tr>
<td>Project Description:</td>
<td>SUP request for storage building greater than 144 sq. ft.</td>
</tr>
<tr>
<td>Department:</td>
<td>Fire Prevention Bureau</td>
</tr>
<tr>
<td>Approval:</td>
<td><em>X</em> YES <em>NO</em></td>
</tr>
<tr>
<td>Comments:</td>
<td>Applicant will have to meet any codes, regulations, ordinances,</td>
</tr>
<tr>
<td></td>
<td>and standards required for permit.</td>
</tr>
</tbody>
</table>

Fire Marshal Juan Saucedo Jr.

Date: August 29, 2019
ATTACHMENT X

SPECIFIC USE PERMIT ("SUP") ROUTING SLIP

APPLICANT: MAGDALENA & JESUS PERALTA

PHONE NO.: 956-561-4928 OR 956-893-2520

LOCATION: 218 W LINCOLN AVE., HRL, TX

PROJECT DESCRIPTION: SUP FOR STORAGE BUILDING GREATER THAN 144 SQ. FT.

DEPARTMENT: Health Department

APPROVAL: X YES ___ NO

COMMENTS: Since no kitchen equipment will be installed and no foods will be prepared or sold at this location, no health department requirements are necessary.

[Signature]

DATE 8-19-19
SPECIFIC USE PERMIT ("SUP") ROUTING SLIP

APPLICANT: MAGDALENA & JESUS PERALTA

PHONE NO.: 956-561-4928 OR 956-893-2520

LOCATION: 218 W LINCOLN AVE., HRL, TX

PROJECT DESCRIPTION: SUP FOR STORAGE BUILDING GREATER THAN 144 SQ. FT.

DEPARTMENT: ENGINEERING

APPROVAL: YES NO

COMMENTS:

SIGNATURE  DATE: 9/4/2019
to: Allan Garces  City of Harlingen Planning & Zoning Dept

Put up a two story storage in back yard. O.K.

No building permit. O.K.

Ah? Do it during weekend, no one is looking. O.K.

You can do anything you want. It's O.K.

You will be rewarded by city officials at the end.

No permit and breaking building codes. O.K.

Think about it. Mr. Garces. That's what it sounds like to me. You are rewarding bad behavior.

I will start putting up my own two story storage building in my back yard. O.K.

Come on.

No permit. O.K.

My neighbor? (not to worry)

It's my property. I can do what ever I want!!!

How does that sound to you?

Silly La?

If everybody think's that way, what is the purpose of having building codes and planning and zoning?

Sincerely, Antonio Mendez.
ORDINANCE NO. 19-_____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO MAGDALENA & JESUS PERALTA TO ALLOW A STORAGE BUILDING GREATER THAN 144 SQ. FT. IN A SINGLE FAMILY RESIDENTIAL (R1) DISTRICT FOR LOT 11 BLOCK 153, HARLINGEN ORIGINAL TOWNSITE SUBDIVISION LOCATED AT 218 W. LINCOLN AVE. SUBJECT TO: (1) STORAGE BUILDING BEING USED PRIMARILY FOR THE USE OR STORAGE OF GOODS AND/OR PROVISIONS NOT INCLUDING HAZARDOUS CHEMICALS OR DANGEROUS MATERIALS. (2) THE BUILDING CANNOT BE USED AS A LIVING SPACE; AND (3) COMPLYING WITH THE REQUIREMENTS ADMINISTERED BY PLANNING AND ZONING, BUILDING INSPECTIONS, AND FIRE PREVENTION.

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a specific use permit 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 specific use permit having been fully made and complied with as required by said Code of Ordinances 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 issued a specific use permit as indicated:

To Issue a Specific Use Permit to Magdalena & Jesus Peralta to allow a storage building greater than 144 Sq. Ft. in a Single Family Residential (R1) District for Lot 11 Block 153, Harlingen Original Townsite Subdivision located at 218 W. Lincoln Ave. Subject to: (1) Storage building being used primarily for the use or storage of goods and/or provisions not including hazardous chemicals or dangerous materials. (2) The building cannot be used as a living space; and (3) Complying with the requirements administered by Planning and Zoning, Building Inspections, and Fire Prevention.

The provisions prohibiting the violation of the Zoning Ordinance shall continue in full force and effect and apply to this amendment.

The specific use permit is made contingent upon a site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as EXHIBIT “A”.

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
Public hearing and take action to consider a request for a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft. in a Single Family Residential (R1) District for Lot 11 Block 153, Harlingen Original Townsite Subdivision located at 218 W. Lincoln Ave. Applicant: Magdalena & Jesus Peralta

Mr. Garces summarized the following:

Per Code of Ordinances Section 111-62, an SUP for a storage building can be processed administratively if there are no written complaints within 10 days of the publication. If a written complaint is received, the SUP requires approval by the City Commission. The applicant is requesting a Specific Use Permit (SUP) to allow a storage building greater than 144 sq. ft.

The subject property has 50 ft. of frontage along W. Lincoln Ave. and a max depth of 140 ft. There is currently a two-story single family residence on the property and an unfinished 15.58 ft. wide by 26 ft. in length two-story accessory building. The first floor of the storage building is 298.3 sq ft and the second floor is 403 sq ft totaling 701.3 sq ft.

According to the applicant, the two-story building will be used for storage of household items and miscellaneous items used by the family only.

The adjacent property to the east is occupied with a single family residence. There is also an accessory structure that is located approximately 5 ft. from the west side property line.

On February 26, 2019, Code Compliance issued a citation for constructing without a building permit and not obtaining a Specific Use Permit (SUP). Based on information received from the property owner the storage building was encroaching into the 5 ft. side yard setback. Subsequently, a variance application was submitted by the property owner.

On August 22, 2019, a variance was approved by the Zoning Board of Adjustments which allows the applicant to apply for an SUP and move forward with the project.

An accessory building as defined in the Zoning Ordinance is a detached subordinate building used for a purpose customarily incidental to the main structure, including, but not limited to, a private garage for automobile storage, greenhouse as a hobby, home workshop, children's playhouse, garden shelter, but not involving the conduct of a business.

Storage building is a building primarily for the use or storage of goods and/or provisions not including hazardous chemicals or dangerous materials.

The building cannot be used as a living space. If the SUP is approved, the applicant is still required to submit a building permit with the Building and Inspections Department.

The City of Harlingen Building Inspections, Health, Fire Prevention, Engineering, Building and Inspections, reviewed the SUP application. The departments reported no objection to the proposed request subject to adhering to the Harlingen Code of Ordinances and procedures administered by each department.
On September 1, 2019, the Planning and Zoning Department received one (1) letter in opposition of the SUP which required the public hearing process for the SUP.

On October 2, 2019, the Planning and Zoning Department received two (2) phone in support of the SUP.

In accordance with the Code of Ordinances, the P&Z and City Commission may impose requirements and conditions of approval as are needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.

Staff recommends approval of the request subject to:

1. Storage building being used primarily for the use or storage of goods and/or provisions not including hazardous chemicals or dangerous materials.
2. The storage building cannot be used as a living space; and
3. Complying with the requirement administered by Planning & Zoning, Building Inspections, and Fire Prevention.

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

Cmr. Wolf and Comr. Lowry asked questions in regards to this item and staff answered all questions.

A letter against this item was sent from a nearby resident in opposition of this storage unit and how it was built with no proper permits.

Chrm. Peacock opened the public hearing.

Mr. Juan Santana is a resident to the east of the Peralta family. He is in support of the applicants request for the SUP. He states that ever since the applicant and their family arrived to the neighborhood they have positively made improvements to the home which reflects well on the neighborhood. Mr. Santana stated that just as himself the surrounding neighbors are in support as well.

Ms. Eva Rios also a neighbor of the Peralta family was present to show her support for this item.

Ms. Magdalena Peralta applicant to this request addressed the board members and expressed her apologies for this issue of building with no permits. She was under the impression that her husband had already obtained the proper permits, but did not. Ms. Peralta stated that this unit is strictly for storage purposes only and will not be used for anything else, she is also aware of any fees that will imply moving forward.

Cmr. Wolf asked Mr. Garces if the applicant obtained the proper permits, when they remodeled their home.

Mr. Garces responded yes.

With no further comments, Chrm. Peacock closed the public hearing

Cmr. Wolf made a motion to approve the re-zoning request as per staff's recommendation.

Cmr. Martinez seconded the motion. The motion carried unanimously.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Public hearing and take action to consider an Ordinance on First Reading for a Specific Use Permit (SUP) to allow expansion of an existing Childcare Business by the name of Martha’s Playground to adjacent property located within a Light Industry (LI) District for Lot 1, Block 1, Safeguard Subdivision and 1.58 acres out of the east 10 acres of Block 4, Highway Subdivision located at 5206-5402 S. Expressway 83. Applicant: Roger Gonzalez.

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

Brief Summary:

Project Timeline
- **September 13, 2019** – Specific Use Permit ("SUP") submitted to the City (ATTACHMENT I).
- **September 28, 2019** – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- **October 9, 2019** - Public hearing was conducted by the Planning and Zoning Commission (P&Z). The P&Z Commission recommended approval of the Specific Use Permit based on Staff’s recommendation by a 3 to 0 vote.
- **October 22, 2019** – Public hearing and consideration of requested SUP via 1st ordinance reading scheduled before the City Commission.
- **November 6, 2019** – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary
- Per the Code of Ordinances, a “day care center” use in a “LI” District requires the approval of an SUP by the City Commission.

- Roger Gonzalez, the applicant, is requesting a specific use permit to allow the current use and the expansion of the existing day care center, Martha's Playschool, located at 5300 S. Expressway 83. The current capacity allows care for up to 48 children. With the building next door, located at 5402 S. Expressway 83, the daycare will be able to accommodate the needs of 120 more children. Martha’s Playschool has been providing care since 2005, but does not currently have a SUP for the use. The daycare will be able to provide care for approximately 168 children. (ATTACHMENT II).

- Surrounding properties are zoned General Retail “GR” to the north, south, and east, and are zoned Mobile Home Residential "MH" to the west. Surrounding land uses on the south side of the expressway include a mobile home park and agricultural use. The land uses on the north side include the Harlingen Medical Center and the Payne Auto Dealership. (ATTACHMENTS III AND IV).

- The City of Harlingen Building Inspections, Health, and Fire Prevention Departments reviewed the SUP application. The departments reported no objection to the proposed
request subject to adhering to the Harlingen Code of Ordinances and procedures administered by each department (ATTACHMENTS VIII-XI).

- Based on the site plan, 13 parking spaces are required and provided, along with the required circular drive.
- The applicant must obtain and maintain the proper State permits.
- Presently, the Planning and Zoning Department has not received any objections to the request from surrounding property owners.
- In accordance with the zoning ordinance, the P&Z and City Commission may impose requirements and conditions of approval as are needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.

### Funding (if applicable):

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

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

Finance Director’s approval:

[ ] Yes [ ] No [ ] N/A

### Staff Recommendation:

Staff recommends approval of the request with the following conditions:

1. Providing and maintaining the required parking and circular drive; and
2. Obtaining and maintaining the proper State and City permits; and
3. Complying with the requirements administered by Planning and Zoning, Building Inspections, Environmental Health, and Fire Prevention Departments.

City Manager’s approval:

[ ] Yes [ ] No [ ] N/A

### Comments:

City Attorney’s approval:

[ ] Yes [ ] No [ ] N/A
CITY OF HARLINGEN PLANNING AND ZONING DIVISION
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)

<table>
<thead>
<tr>
<th>Project Address</th>
<th>Nearest Intersection</th>
<th>Lot</th>
<th>Block</th>
</tr>
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<tr>
<td>5200 5 Exp 83</td>
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<td></td>
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<td></td>
<td></td>
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</tbody>
</table>

(Proposed) Subdivision Name

Existing Zoning Designation

Future Land Use Plan Designation

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></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Email Address (for project correspondence only):

Mailing Address:

Property Owner

Phone

Email Address (for project correspondence only):

Mailing Address:

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

- [ ] Annexation Request ... No Fee
- [ ] Administrative Appeal (ZBA) ... $125.00
- [ ] Comp. Plan Amendment Request ... $250.00
- [ ] Re-zoning Request ... $250.00
- [X] SUP Request/Renewal ... $250.00
- [ ] Zoning Variance Request (ZBA) ... $250.00
- [ ] PDD Request ... $250.00
- [ ] License to Encroach ... $250.00
- [ ] Preliminary Plat ... $100.00
- [ ] Final Plat ... $50.00
- [ ] Minor Plat ... $100.00
- [ ] Re-plat ... $225.00
- [ ] Vacating Plat ... $50.00
- [ ] Development Plat ... $100.00
- [ ] Subdivision Variance Request ... $25.00 (each)

Please provide a basic description of the proposed project: This property will be an addition to the existing Child Care Business (Maude's Play Center).

5200 5 Exp 83 78552

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

Applicant’s Signature: Date: 9-11-19

Property Owner(s) Signature: Date: 9-11-19

Accepted by: Date:
PLANNED DEVELOPMENT DISTRICT (PDD) REQUEST
SPECIFIC USE PERMIT (SUP) REQUEST
SUBMITTAL CHECKLIST

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

Complete

☐ City and School Tax Certificates

☐ Ten (10) copies of a comprehensive site plan showing the proposed development of the property. The site plan shall consist of the following items, as applicable:
  o Existing/proposed building footprints and building heights (or buildable areas for single and two-family residential); and
  o Locations of proposed uses; and
  o Ingress and egress to/from property; and
  o Existing/proposed streets in compliance with the City of Harlingen Long Range Thoroughfare Plan; and
  o Existing/proposed sidewalks; and
  o Existing/proposed utilities; and
  o Existing/proposed drainage; and
  o Existing/proposed parking spaces.

☐ Any other information (e.g., photographs, etc.) in support of the subject request.

☐ I understand that I am requesting an amendment to the City’s Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.

☐ I understand that in accordance State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
  o A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
  o Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.

☐ I understand that while all requirements for the submission of a PDD or SUP request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.

☐ I understand that the purpose of a PDD or SUP is to allow for development not otherwise authorized in the Zoning Ordinance. Hence, the Planning and Zoning Commission and/or City Commission may impose development standards important to the health, safety, welfare, and protection of the proposed development and the adjacent property and its occupants.

Owner: MAC ELKINS Date: 9/13/19
Owner Address: 5204 So. Exp. 83
Phone/Fax: 428-8458
Signature: Mac Elkins
To: City of Harlingen TX
From: Roger Gonzalez
Subject: Specific use Permit

September, 13th, 2019

I would like to request a SUP for the property located at 5402 S. Expressway 83 in Harlingen TX 78552, for the use of a Child Day Care Center.

We plan to extend (add-on) to our existing Day Care Center, Martha’s Playschool, located at 5300 S. expressway 83 in Harlingen TX 78552.

The Department of Licensing Childcare Services has granted us the permission to continue with this extension project, as long as we comply with the city ordinances.

Martha’s Playschool has been providing care for Infants, Toddlers, Pre-School, and School Age children since 2005 (14 years) and if granted by the city of Harlingen Martha’s Playschool will have the capacity to provide care for apox 168 children of working parents.

At the same time at full capacity Martha’s Playschool will create at least 20 new job openings including but not limited to Caregivers, Admins, and Janitors.

Thank You,
Roger and Elda Gonzalez

PO Box 1127 Raymondville TX 78580
T: (956) 330-2094
Info:
*Our current daycare center is Martha's Playschool, located at 5300 S. Expressway 83 in Harlingen Tx. 78552

* We have been servicing the Harlingen community since 2005

*We have a permanent permit from the Department of Family and Protective Service to care for 48 Children.

*We have been granted permission to expand (add-on) to the building next door as long as we meet DFPS guidelines.

Our Request:
*We would like the city of Harlingen to grant us permission to go forward with our Daycare Project.

* We will be able to accommodate the needs of 120 more Children with this expansion, which would be a total of 168 Children.

*At full capacity creating at least 20 job openings from caregivers, administrators, and janitors.

Thank You; Roger Gonzalez (owner) & Criselda Gonzalez (owner)

September, 13th, 2019
ROOM
ROOM
ROOM
CLOSET STORAGE
OPEN SPACE ROOM
ROOM
OPEN SPACE ROOM
OPEN SPACE ROOM
OPEN SPACE ROOM
CLOSET
WATER HEATER
RESTROOM 1
RESTROOM 2
RESTROOM 3
RECEPTION DESK
ROOM
ROOM
ROOM
FRONT DOOR
PROJECT: Child Daycare Center
APPROX SQ FOOTAGE 5,200
5402 S. EXPRESSWAY 83
HARLINGEN TX 78552
Request for a Specific Use Permit (SUP) to allow expansion of an existing Childcare Business by the name of Martha's Playground to adjacent property located within a Light Industry (LI) District for Lot 1, Block 1, Safeguard Subdivision and 1.58 acres out of the east 10 acres of Block 4, Highway Subdivision located at 5206-5402 S. Expressway 83. Applicant: Roger Gonzalez

Zoning Designations

- General Retail (GR)
- Heavy Industry (HI)
- Light Industry (LI)
- Mobile Home Residential (MH)
- Not-Designated (N)
- 3/4 Plex Residential (M1)
- Neighborhood Services (NS)
- Multi-Family Residential (M2)
- Single Family Residential (R1)
- Duplex Residential (R2)
- Planned Development (PD)
- Office (O)
- Residential Patio Home (RPH)

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 9.25.19
Specific Use Permit ("SUP") Routing Slip

**Applicant:** ROGER GONZALEZ

**Phone No.:** (956) 330-2094

**Location:** 5402 S. EXPWY 83

**Project Description:** SUP request for Day Care “Business” Expansion

**Department:** Building Inspections Department

**Approval:** YES  ____ NO

**Comments:**
1. Building will require change in use from Business/Warehouse use to Institutional Use.
2. Proposed change will require for Architectural Sealed Plans to be submitted for review prior to issuance of Building Permit.
3. The plans would reflect any modification required for the new intended building use with regards to life safety conditions, accessible elements and the minimum required plumbing fixtures.
4. Must comply with all applicable city ordinances, codes and standards before a final Certificate of Occupancy is issued.

* Approval for the purpose of Zoning Designation Requirements.

**Signature:** 

**Date:** 9/25/19

**Date**
Specific Use Permit ("SUP") Routing Slip

Applicant: Roger Gonzalez
Phone No.: (956) 330-2094
Location: 5402 S Expwy 83
Project Description: SUP request for Day Care Expansion

Department: Fire Prevention Bureau

Approval:  X YES  NO

Comments: Applicant will have to meet any codes, regulations, ordinances, and standards required for permit.

Fire Marshal Juan Saucedo Jr.

Date: September 23, 2019
SPECIFIC USE PERMIT ("SUP") ROUTING SLIP

APPLICANT: ROGER GONZALEZ
PHONE NO.: 956-330-2094
LOCATION: 5402 S EXPWY 83
PROJECT DESCRIPTION: SUP DAY CARE EXPANSION

DEPARTMENT: Health Dept
APPROVAL: YES ___ NO ___
COMMENTS: Addition appears to be room and storage space with few restrooms.

SIGNATURE 9-20-19  DATE
ORDINANCE NO. 19---

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT ("SUP") TO ROGER GONZALEZ TO ALLOW EXPANSION OF AN EXISTING CHILDCARE BUSINESS BY THE NAME OF MARTHA'S PLAYGROUND TO ADJACENT PROPERTY LOCATED WITHIN A LIGHT INDUSTRY (LI) DISTRICT FOR LOT 1, BLOCK 1, SAFEGUARD SUBDIVISION AND 1.58 ACRES OUT OF THE EAST 10 ACRES OF BLOCK 4, HIGHWAY SUBDIVISION LOCATED AT 5206-5402 S EXPRESSWAY 83, SUBJECT TO: (1) PROVIDING AND MAINTAINING THE REQUIRED PARKING AND CIRCULAR DRIVE AND (2) OBTAINING AND MAINTAINING PROPER STATE PERMITS AND (3) COMPLYING WITH REQUIREMENTS ADMINISTERED BY THE PLANNING, BUILDING INSPECTIONS, ENVIRONMENTAL HEALTH, AND FIRE PREVENTION DEPARTMENTS; 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 specific use permit 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 specific use permit having been fully made and complied with as required by said Code of Ordinances 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 issued a specific use permit as indicated:

To issue a specific use permit ("SUP") to Roger Gonzalez to allow expansion of an existing Childcare Business by the name of Martha's Playground to adjacent property located within a Light Industry (LI) District for Lot 1, Block 1, Safeguard Subdivision and 1.58 acres out of the east 10 acres of Block 4, Highway Subdivision located at 5206-5402 S. Expressway 83, subject to: (1) Providing and maintaining the required parking and circular drive (2) Obtaining and maintaining the proper State and City permits and (3) Complying with requirements administered by the Planning, Building Inspections, Environmental Health, and Fire Prevention Departments;

The provisions prohibiting the violation of the Zoning Ordinance shall continue in full force and effect and apply to this amendment.

The specific use permit is made contingent upon a site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as EXHIBIT "A".

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
ATTEST:

Amanda C. Elizondo, City Secretary
Public hearing and take action to consider a Specific Use Permit (SUP) to allow expansion of an existing Childcare Business by the name of Martha’s Playground to adjacent property located within a Light Industry (LI) District for Lot 1, Block 1, Safeguard Subdivision and 1.58 acres out of the east 10 acres of Block 4, Highway Subdivision located at 5206-5402 S. Expressway 83. Applicant: Roger Gonzalez

Mr. Molina summarized the following:

Per the Code of Ordinances, a “day care center” use in a “LI” District requires the approval of an SUP by the City Commission.

Roger Gonzalez, the applicant, is requesting a specific use permit to allow the current use and the expansion of the existing day care center, Martha’s Playschool, located at 5300 S. Expressway 83. The current capacity allows care for up to 48 children. With the building next door, located at 5402 S. Expressway 83, the daycare will be able to accommodate the needs of 120 more children. Martha’s Playschool has been providing care since 2005, but does not currently have a SUP for the use. The daycare will be able to provide care for approximately 168 children.

Surrounding properties are zoned General Retail “GR” to the north, south, and east, and are zoned Mobile Home Residential “MH” to the west. Surrounding land uses on the south side of the expressway include a mobile home park and agricultural use. The land uses on the north side include the Harlingen Medical Center and the Payne Auto Dealership.

The City of Harlingen Building Inspections, Health, and Fire Prevention Departments reviewed the SUP application. The departments reported no objection to the proposed request subject to adhering to the Harlingen Code of Ordinances and procedures administered by each department.

Based on the site plan, 13 parking spaces are required and provided, along with the required circular drive.

The applicant must obtain and maintain the proper State permits.

Presently, the Planning and Zoning Department has not received any objections to the request from surrounding property owners.

In accordance with the zoning ordinance, the P&Z and City Commission may impose requirements and conditions of approval as are needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.

Staff recommends approval of the request with the following conditions:
1. Providing and maintaining the required parking and circular drive; and
2. Obtaining and maintaining the proper State and City permits; and
3. Complying with the requirements administered by Planning and Zoning, Building Inspections, Environmental Health, and Fire Prevention Departments.

Chrm. Peacock asked if there were any questions for staff. There was none.

Chrm. Peacock opened the public hearing. No one spoke during the public hearing.
Cmr. Wolf made a motion to approve the re-zoning request as per staff's recommendation. Cmr. Lowry seconded the motion. The motion carried unanimously.
Meeting Date: 10/22/2019

**AGENDA ITEM**

**EXECUTIVE SUMMARY**

<table>
<thead>
<tr>
<th>Agenda Item:</th>
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<tbody>
<tr>
<td>Public hearing and take action to consider an Ordinance on First Reading for a Specific Use Permit (SUP) to allow a Bar/Lounge in a General Retail (GR) District for Lot 4, Block 1, South Point Subdivision located at 640 N. Ed Carey Drive. Applicant: Kamlesh Bhakta</td>
</tr>
</tbody>
</table>

Prepared By: Xavier Cervantes, AICP  
Title: Planning and Development Director  
Signature: [Signature]

<table>
<thead>
<tr>
<th>Brief Summary:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Timeline</strong></td>
</tr>
</tbody>
</table>
| • September 23, 2019 – Application for Specific Use Permit (SUP) submitted to the City.  
  *(ATTACHMENT I)*  
| • September 28, 2019 – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.  
| • October 9, 2019 – Public hearing was conducted by the Planning and Zoning Commission (P&Z). **The P&Z Commission recommended approval of the Specific Use Permit based on Staff’s recommendation by a 3 to 0 vote.**  
| • October 22, 2019 – Public hearing and consideration of requested Specific Use Permit via 1st ordinance reading scheduled before the City Commission.  
| • November 6, 2019 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.  

**Summary** |
| • Per the Code of Ordinances, an “adult business” (bar/lounge) use in a “GR” District requires the approval of an SUP by the City Commission.  
| • The applicant is requesting a Specific Use Permit (SUP) to allow a bar/lounge shop under the name of “Broken Tap” out of an existing 4,172 sq. ft. suite located at 640 N. Ed Carey Dr.  *(ATTACHMENT II-III)*  
| • Surrounding properties are zoned General Retail (GR) District in all directions. Surrounding land uses within the plaza consist of Creasey’s Bowling Alley, Whataburger, Medcheck Labs, and CSL Plasma. The surrounding uses are commercial in all directions.  *(ATTACHMENT IV)*  
| • On July 27, 2005, an SUP was originally approved to allow a bar/lounge on the subject property. In July 22, 2008, an SUP was approved for the subject property since the bar/lounge was under new ownership.  
| • The existing use of a bar/lounge has been in operation since 2005; however, due to the change of business ownership, the new applicant is required to apply for an SUP in order to be in compliance with the Code of Ordinances.  
| • The applicant noted that the hours of operation will be Monday - Sunday from 12pm to |
2am order to apply for a Mixed Beverage Late Hours Permit through TABC. According to
the applicant, there will be a DJ Thursday – Saturday.

- The applicant will still have to submit a building permit/reoccupancy with the Building
  Inspections Department in order to receive a Certificate of Occupancy and operate the
  bar/lounge.
- The establishment must comply with the off street parking requirement. Based on the
  information provided, 42 parking spaces are required and are provided in the common
  parking area.
- Harlingen Police Department, Building Inspections, Health Department, and Fire
  Prevention Bureau reviewed the SUP application and recommend approval of the SUP.
  (ATTACHMENT V-VII)
- In accordance with the zoning ordinance, the P&Z and City Commission may impose
  requirements and conditions of approval as are needed to ensure that a use requested by a
  SUP is compatible and complementary to adjacent properties.

### Funding (if applicable):

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

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

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

### Staff Recommendation:

Staff recommends **approval** of the request subject to the following:

1. Provision of security officers during peak hours of operation (Thursday – Saturday from
   9pm to 2am);
2. Provision of video surveillance with 30 day retention period;
3. Provision of adequate lighting inside and outside the business;
4. Obtain and maintain proper state permits;
5. Compliance Code of Ordinance Chapter 22, Article 3, Sections 22-54 to 22-66 Smoking
   Regulations; and
6. Compliance with the requirements administered by the Planning & Zoning Commission,
   Building Inspections Departments, Environmental Health, Fire Prevention, and Police
   Departments prior to the issuance of Certificate of Occupancy.

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

### Comments:

City Attorney’s approval: ☐ Yes ☐ No ☐ N/A
# CITY OF HARLINGEN PLANNING AND ZONING DIVISION
## MASTER APPLICATION

### PROPERTY INFORMATION:
(Please PRINT or TYPE)
- **Project Address:** 640 N Ed Carey Dr, Nearest Intersection Ed Carey / Hale
- **(Proposed) Subdivision Name:** South Point Subdivision
- **Lot:** 4
- **Block:** 1
- **Existing Zoning Designation:** Commercial
- **Future Land Use Plan Designation:**

### OWNER/APPLICANT INFORMATION:
(Please PRINT or TYPE)
- **Applicant/Authorized Agent:** Ramola Bhakta
- **Phone:** 956-245-5346
- **Fax:**
- **Email Address:**
- **Mailing Address:**
- **Property Owner:**
- **Phone:** 956-245-5346
- **Fax:**
- **Email Address:**
- **Mailing Address:**

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

<table>
<thead>
<tr>
<th>Process</th>
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<tr>
<td>Subdivision Variance Request</td>
<td>$25.00 (each)</td>
</tr>
</tbody>
</table>

### Please provide a basic description of the proposed project:
Bar / Pool Hall

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

- **Applicant's Signature:**
- **Date:** 7.23.19

- **Property Owner(s) Signature:**
- **Date:**

- **Accepted by:**
- **Date:**
Request for a Specific Use Permit (SUP) to allow a Bar/Lounge in a General Retail (GR) District for Lot 4, Block 1, South Point Subdivision located at 640 N. Ed Carey Drive. Applicant: Kamlesh Bhakta

Zoning Designations

- General Retail (GR)
- Multi Family Residential (M2)
- Office (O)
- Heavy Industry (HI)
- Mobile Home Residential (MH)
- Planned Development (PD)
- Light Industry (LI)
- Not-Designated (N)
- Single Family Residential (R1)
- Duplex Residential (R2)
- Residential Patio Home (RPH)

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 9.25.19
Broken Tap is an existing and fully functioning bar/poolhall. The bar will have a DJ/Music Thursday-Saturday and pool tables. There will be Class B Security/Doormen on site during busy hours as well as numerous security cameras that have a 30-day retention period. Open till 3am every day Monday - Sunday

FEASIBILITY PLAN

SOUTH POINT SUBDIVISION
SPECIFIC USE PERMIT ("SUP") ROUTING SLIP

APPLICANT: KAMLESH BHAKTA
PHONE NO.: 956-245-5046
LOCATION: 640 N ED CAREY
PROJECT DESCRIPTION: SUP FOR EXISTING BAR UNDER NEW OWNERSHIP

DEPARTMENT: HARLINGEN POLICE DEPT.

APPROVAL: YES NO

COMMENTS:

SIGNATURE DATE 18-1-19
Specific Use Permit ("SUP") Routing Slip

<p>| Applicant:  | Kamlesh Bhakta |
| Phone No.:  | (956) 245-5946 |
| Location:   | 640 N. Ed Carey Dr |
| Project Description: | SUP request for existing bar under new ownership |
| Department: | Building Inspectors Department |
| Approval:   | ☑ YES ☐ NO |
| Comments:   | 1. Require to apply for any and all applicable permits. (Re-occupancy, Building, Electrical, Plumbing, &amp; Mechanical) 2. Must comply with all applicable city ordinances, codes and standards before a final Certificate of Occupancy is issued. |
| Signature   | Esmail Ortega Jr. |
| Date        | 9/24/19 |</p>
<table>
<thead>
<tr>
<th align="center"><strong>APPLICANT:</strong></th>
<th align="center">KAMLESH BHAKTA</th>
</tr>
</thead>
<tbody>
<tr>
<td align="center"><strong>PHONE NO.:</strong></td>
<td align="center">956-245-5046</td>
</tr>
<tr>
<td align="center"><strong>LOCATION:</strong></td>
<td align="center">640 N ED CAREY</td>
</tr>
<tr>
<td align="center"><strong>PROJECT DESCRIPTION:</strong></td>
<td align="center">SUP FOR EXISTING BAR UNDER NEW OWNERSHIP</td>
</tr>
</tbody>
</table>

**DEPARTMENT:** Health Dept.

**APPROVAL:**

- YES
- NO

**COMMENTS:**

Site Plan and Master Application Sheet Submitted by Mr. Bhakta does not show any kitchen equipment or area for a kitchen. However, if liquor is to be served then a Small 3 Compartment Sink will be required in the bar area with a hand washing sink also.

**SIGNATURE**

**DATE**

9-24-19
## Specific Use Permit ("SUP") Routing Slip

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Kamlesh Bhakta</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone No.</td>
<td>(956) 245-5046</td>
</tr>
<tr>
<td>Location</td>
<td>640 N Ed Carey</td>
</tr>
<tr>
<td>Project Description</td>
<td>SUP request for existing bar under new ownership</td>
</tr>
<tr>
<td>Department</td>
<td>Fire Prevention Bureau</td>
</tr>
<tr>
<td>Approval</td>
<td><em>X</em> YES _NO</td>
</tr>
<tr>
<td>Comments</td>
<td>Applicant will have to meet any codes, regulations, ordinances, and standards required for permit.</td>
</tr>
</tbody>
</table>

**Fire Marshal Juan Sauced Jr.**

Date: September 24, 2019
ORDINANCE NO. 19-_____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: TO ISSUE A SPECIFIC USE PERMIT TO KAMLESH BHAKTA TO ALLOW A BAR/LOUNGE IN A GENERAL RETAIL (GR) DISTRICT FOR LOT 4, BLOCK 1, SOUTH POINT SUBDIVISION LOCATED AT 640 N. ED CAREY DRIVE, SUBJECT TO: (1) PROVISION OF SECURITY OFFICERS DURING PEAK HOURS OF OPERATION (THURSDAY – SATURDAY FROM 9PM TO 2AM); (2) PROVISION OF VIDEO SURVEILLANCE WITH 30 DAY RETENTION PERIOD; (3) PROVISION OF ADEQUATE LIGHTING INSIDE AND OUTSIDE THE BUSINESS; (4) OBTAIN AND MAINTAIN PROPER STATE PERMITS; (5) COMPLIANCE CODE OF ORDINANCE CHAPTER 22, ARTICLE 3, SECTIONS 22-54 TO 22-66 SMOKING REGULATIONS; AND (6) COMPLIANCE WITH THE REQUIREMENTS ADMINISTERED BY THE PLANNING & ZONING COMMISSION, BUILDING INSPECTIONS DEPARTMENTS, ENVIRONMENTAL HEALTH, FIRE PREVENTION, AND POLICE DEPARTMENTS PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY.

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen’s Zoning Ordinance procedure, has recommended a specific use permit 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 specific use permit having been fully made and complied with as required by said Code of Ordinances 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 issued a specific use permit as indicated:

To Issue a Specific Use Permit to Kamlesh Bhakta to allow a Bar/Lounge in a General Retail (GR) District for Lot 4, Block 1, South Point Subdivision located at 640 N. Ed Carey Drive. Subject to: (1) Provision of security officers during peak hours of operation (Thursday - Saturday from 9pm to 2am); (2) Provision of video surveillance with 30 day retention period; (3) Provision of adequate lighting inside and outside the business; (4) Obtain and maintain proper state permits; (5) Compliance Code of Ordinance Chapter 22, Article 3, Sections 22-54 to 22-66 Smoking Regulations; and (6) Compliance with the requirements administered by the Planning & Zoning Commission, Building Inspections Departments, Environmental Health, Fire Prevention, and Police Departments prior to the issuance of Certificate of Occupancy.

The provisions prohibiting the violation of the Zoning Ordinance shall continue in full force and effect and apply to this amendment.

The specific use permit is made contingent upon a site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as EXHIBIT "A".

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
ATTEST:

Amanda C. Elizondo, City Secretary
EXHIBIT "A"
Public hearing and take action to consider a request for a Specific Use Permit (SUP) to allow a Bar/Lounge in a General Retail (GR) District for Lot 4, Block 1, South Point Subdivision located at 640 N. Ed Carey Drive. Applicant: Kamlesh Bhakta

Mr. Garces summarized the following:

Per the Code of Ordinances, an “adult business” (bar/lounge) use in a “GR” District requires the approval of an SUP by the City Commission.

The applicant is requesting a Specific Use Permit (SUP) to allow a bar/lounge shop under the name of “Broken Tap” out of an existing 4,172 sq. ft. suite located at 640 N. Ed Carey Dr.

Surrounding properties are zoned General Retail (GR) District in all directions. Surrounding land uses within the plaza consist of Creasey’s Bowling Alley, Whataburger, Medcheck Labs, and CSL Plasma. The surrounding uses are commercial in all directions.

The existing use has been in operation; however, due to the change of business ownership, the new applicant is required to apply for an SUP in order to be in compliance with the Code of Ordinances.

The applicant noted that the hours of operation will be Monday - Sunday from 12pm to 2am in order to apply for a Mixed Beverage Late Hours Permit through TABC. According to the applicant, there will be a DJ Thursday – Saturday.

The applicant will still have to submit a building permit/reoccupancy with the Building Inspections Department in order to receive a Certificate of Occupancy and operate the bar/lounge.

The establishment must comply with off street parking requirement. Based on the information provided, 42 parking spaces are required and are provided in the common parking area.

Harlingen Police Department, Building Inspections, Health Department, and Fire Prevention Bureau reviewed the SUP application and recommend approval of the SUP.

In accordance with the zoning ordinance, the P&Z and City Commission may impose requirements and conditions of approval as are needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.

Staff recommends approval of the request subject to the following:

1. Provision of security officers during peak hours of operation (Thursday – Saturday from 9pm to 2am);
2. Provision of video surveillance with 30 day retention period;
3. Provision of adequate lighting inside and outside the business;
4. Obtain and maintain proper state permits;
5. Compliance Code of Ordinance Chapter 22, Article 3, Sections 22-54 to 22-66 Smoking Regulations; and
6. Compliance with the requirements administered by the Planning & Zoning Commission, Building Inspections Departments, Environmental Health, Fire Prevention, and Police Departments prior to the issuance of Certificate of Occupancy.
Chrm. Peacock asked if there were any questions for staff. There was none.

Chrm. Peacock opened the public hearing. There was none.

Cmr. Martinez made a motion to approve the SUP request as per staff's recommendation. Cmr. Wolf seconded the motion. The motion carried unanimously.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Public hearing and take action to consider an Ordinance on First Reading to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for 8.99 acres of land consisting of 0.50 acres out of Block 41, and 8.49 acres out of Block 42, Howard Dixieland Heights Subdivision. Applicant: Christopher S. Dowling, c/o Marine Military Academy

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director
Signature: [Signature]

Project Timeline

- August 28, 2019 – Application for rezoning submitted to the City (ATTACHMENT I and II).
- September 29, 2019 – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- October 9, 2019- Public hearing was conducted by the Planning and Zoning Commission (P&Z). The P&Z Commission recommended approval of the rezoning request by a 3 to 0 vote.
- October 22, 2019– Public hearing and consideration of requested rezoning via 1st ordinance reading scheduled before the City Commission.
- November 6, 2019 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- The applicant is requesting to rezone the subject property from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District to sell the property to a potential buyer who is interested in constructing a multi-family development on the subject property (ATTACHMENT III).
- The subject property is currently vacant. It has 593 feet of frontage along Garrett Road and 660 feet of frontage along Dixieland Road. Garrett Road is a two lane 37 ft. wide with curb and gutter paved street. Dixieland Road is a four lane plus a turning lane 62 ft. wide with curb and gutter paved street (ATTACHMENT IV-VI).
- The subject property was zoned to Residential, Single Family ("R-1") as part of a City Initiated Rezoning on January 18, 2017.
- The surrounding properties are zoned Residential, Single Family ("R-1") District to the north and west, Not Designated ("N") District to the south, and Residential, Single Family...
("R-1") and Residential, Multi-Family to the east. (ATTACHMENT III). The surrounding land uses consists of single family homes to the north, Dixieland Pak to the south, a single family home and vacant land in agriculture use to the east, and vacant land in agriculture use to the west (ATTACHMENT VII).

- The Future Land Use Plan (FLUP) component of the City of Harlingen One Vision One Harlingen Comprehensive Plan shows this area as low density residential (ATTACHMENT VIII). Although the requested rezoning is not consistent with the Future Land Use Plan, it is consistent with the adjacent Residential, Multi-Family ("M-2") zoning to the east of the subject property.

- To the present, the Planning and Zoning Department has received one concern from a surrounding property owner in reference to the proposed rezoning request.

<table>
<thead>
<tr>
<th>Funding (if applicable):</th>
</tr>
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<tbody>
<tr>
<td>Are funds specifically designated in the current budget for the full amount</td>
</tr>
<tr>
<td>for this purpose?</td>
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<tr>
<td>*If no, specify source of funding and amount requested:</td>
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<td>Finance Director’s approval:</td>
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<th>Staff Recommendation:</th>
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<td>Staff recommends approval.</td>
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<th>City Manager’s approval:</th>
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<td>Yes</td>
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<table>
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<th>Comments:</th>
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<table>
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<tr>
<th>City Attorney’s approval:</th>
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<tbody>
<tr>
<td>Yes</td>
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<tr>
<td>10/18/19</td>
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## Property Information

<table>
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<tr>
<th>Project Address</th>
<th>Nearest Intersection</th>
<th>Existing Zoning Designation</th>
<th>Future Land Use Plan Designation</th>
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</thead>
<tbody>
<tr>
<td>Howard Dixieland Heights Subdivision</td>
<td>Dixieland Rd</td>
<td>R-1</td>
<td>H-2</td>
</tr>
</tbody>
</table>

Full legal description is attached.

### Owner/Applicant Information

- **Applicant/Authorized Agent**: Christopher S. Dowling  
  - Phone: 432-432-1234  
  - Email: Dowling@mma-tx.org

- **Property Owner**: Martin Military Academy  
  - Phone: 432-432-1234  
  - Email: Dowling@mma-tx.org

- **Mailing Address**:  
  - 961 East Levee St, City, Harlingen, TX 78550

### Application Fees

- Annexation Request: $125.00
- Administrative Appeal (ZBA): $125.00
- Comp. Plan Amendment Request: $250.00
- Re-zoning Request: $250.00
- SUP Request/Renewal: $250.00
- Zoning Variance Request (ZBA): $250.00
- POO Request: $250.00

### Description of Proposed Project

The buyer of this property is interested in building a multi-family project. Purchase of this property is contingent upon rezoning.

### Certifications

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 not as stated, the permit or approval may be revoked.

- **Applicant's Signature**:  
  - Date: 8/15/2019

- **Property Owner(s) Signature**:  
  - Date: 9/15/2019

- **Accepted by**:  
  - Date: 8-28-19
RE-ZONING REQUEST
SUBMITTAL CHECKLIST

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

Complete

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

- I understand that I am requesting an amendment to the City's Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.

- I understand that in accordance with State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
  - A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
  - Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.

- I understand that while all requirements for the submittal of a re-zoning request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.

Owner: Marine Military Academy
Owner Address: 3100 Iowa Blvd. Harlingen Texas 78550
Phone/Fax: (956) 423 6001
Signature: Christopher S. Rendon
Attachment II

MAP OF SURVEY

BEING 8.985 ACRES (CALLED 8.89 ACRES) OF LAND CONSISTING OF 0.05
ACRES OUT OF BLOCK FORTY ONE (41), AND 8.885 ACRES (CALLED, 8.89
ACRES) BEING ALL OF BLOCK FORTY TWO (42), OF NORMAN'S DUETLAND
HEIGHTS SUBDIVISION, AS RECORDED IN VOLUME 5, PAGE 68 OF THE MAP
RECORDS OF CAMERON COUNTY, TEXAS, AND FURTHER BEING THAT SAME
PROPERTY RECORDED IN VOLUME 22079, PAGE 23 OF THE OFFICIAL
RECORDS OF CAMERON COUNTY, TEXAS.

PioGar Engineering, LLC.
Registration No. 07955
Civil Engineering Consultant
3050 I-44 East
Phone: (956) 296-8700
Fax: (956) 296-8701
Email: info@piogar.com

RioSur Surveying, L.L.C.
Registration No. 07091
Surveying Consultant
221 S. OSCAR WILLIAMS ROAD
SAN BENITO, TEXAS 78586
Phone: (956) 296-8700
Fax: (956) 296-8701
Email: info@riossurveying.com

F. G. SAUKER, P.E.
Request of Christopher S. Dowling to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for 8.99 acres of land consisting of 0.50 acre out of Block 41, and 8.49 acres out of Block 42, Howard Dixieland Heights Subdivision, located at the southeast corner of Dixieland Road and Garrett Road.
Attachment IV

VIEW FROM THE NORTH ON GARRETT RD.
VIEW FROM THE EAST ON GARRETT ROAD
Attachment VI

VIEW FROM THE WEST ON GARRETT AND DIXIELAND ROADS
Future Land Use Map

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

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 4.3.19.
ORDINANCE NO. 19

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM RESIDENTIAL, SINGLE FAMILY ("R-1") DISTRICT TO RESIDENTIAL, MULTI-FAMILY ("M-2") DISTRICT FOR 8.99 ACRES OF LAND CONSISTING OF 0.50 ACRES OUT OF BLOCK 41, AND 8.49 ACRES OUT OF BLOCK 42, HOWARD DIXIELAND HEIGHTS SUBDIVISION, LOCATED AT THE SOUTHEAST CORNER OF DIXIELAND ROAD AND GARRETT ROAD; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

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

BE IT ORDAINED BY THE CITY OF HARLINGEN

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

Rezoning from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for 8.99 acres of land
consisting of 0.50 acres out of Block 41, and 8.49 acres out of Block 42, Howard Dixieland Heights Subdivision, located at the southeast corner of Dixieland Road and Garrett Road.

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 of Christopher S. Dowling to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for 8.99 acres of land consisting of 0.50 acre out of Block 41, and 8.49 acres out of Block 42, Howard Dixieland Heights Subdivision, located at the southeast corner of Dixieland Road and Garrett Road.

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 6.21.19.
Public hearing and take action to consider a request to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for 8.99 acres of land consisting of 0.50 acres out of Block 41, and 8.49 acres out of Block 42, Howard Dixieland Heights Subdivision. Applicant: Christopher S. Dowling, c/o Marine Military Academy

Mr. Olivo summarized the following:

The applicant is requesting to rezone the subject property from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District to sell the property to a potential buyer who is interested in constructing a multi-family development on the subject property.

The subject property is currently vacant. It has 593 feet of frontage along Garrett Road and 660 feet of frontage along Dixieland Road. Garrett Road is a two lane 37 ft. wide with curb and gutter paved street. Dixieland Road is a four lane plus a turning lane 62 ft. wide with curb and gutter paved street.

The subject property was zoned to Residential, Single Family ("R-1") as part of a City Initiated Rezoning on January 18, 2017.

The surrounding properties are zoned Residential, Single Family ("R-1") District to the north and west, Not Designated ("N") District to the south, and Residential, Single Family ("R-1") and Residential, Multi-Family to the east.

The surrounding land uses consist of single family homes to the north, Dixieland Park to the south, a single family home and vacant land in agriculture use to the east, and vacant land in agriculture use to the west.

The Future Land Use Plan (FLUP) component of the City of Harlingen One Vision One Harlingen Comprehensive Plan shows this area as low density residential. Although the requested rezoning is not consistent with the Future Land Use Plan, it is consistent with the adjacent Residential, Multi-Family ("M-2") zoning to the east of the subject property.

To the present, the Planning and Zoning Department has received one concern from a surrounding property owner in reference to the proposed rezoning request.

Staff recommended approval.

Mr. Olivo stated that the applicant was present.

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

Cmr. Wolf asked that with the exception of the one single family residence, all the other multi-family tracks don't have any multi-family use on them, correct? What is the background as to why those were zoned multi-family?

Mr. Olivo responded yes, the properties zoned multi-family are not developed. He further stated that at that time the applicant had requested to rezone the property to multi-family to develop the properties for multi-family use.
Chrm. Peacock opened the public hearing.

Ms. Diana Sanchez, currently residing on Acadia Street, stated she had a concern with her property value, if the property were to be rezoned to multi-family. Will her property devaluate with the future construction of multi-family homes, what type of homes will be getting built, and what are the entrances and exits to this future construction.

Chrm. Peacock answered that at this moment they do not know what exactly will be getting built, for this is only a re-zoning request.

Chrm. Peacock asked if there is an intent from the owner.

Mr. Olivo answered that the applicant has not submitted a site plan, but that the applicant is present to elaborate more about this item. In reference to Ms. Sanchez’s concern regarding the value of her property according to the appraisal district, rezoning the property does not affect the value. The value of her property would be affected if she were to change the use of her property, or an improvement was done to the property.

Mr. Mark Mosley with the Community Development Corporation of Brownsville shared with the members and audience present, the intent of use for the request to re-zone. The plans are to develop rental homes for middle class residents, and will not be used for public housing. Currently there are not any plans or designs at the moment.

With no comments from the public and no additional questions from the board, Chrm. Peacock closed the public hearing.

Cmr. Martinez made a motion to approve the re-zoning request as per staff’s recommendation. Cmr. Wolf seconded the motion. The motion carried unanimously.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Public hearing and take action to consider an Ordinance on First Reading to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 3, Sun Valley Shopping Center Unit No. 2, save and except 30 feet x 58.33 feet, located on the west side of 11th Street north of Washington Avenue. Applicant: John Timms

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director
Signature: X. Cervantes

Brief Summary:

Project Timeline

- September 18, 2019 – Application for rezoning submitted to the City (ATTACHMENT I and II).
- September 29, 2019 – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- October 9, 2019- Public hearing was conducted by the Planning and Zoning Commission (P&Z). The P&Z Commission recommended approval of the rezoning request by a 3 to 0 vote.
- October 22, 2019 – Public hearing and consideration of requested rezoning via 1st ordinance reading scheduled before the City Commission.
- November 6, 2019 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- The applicant is requesting to rezone the subject property from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District to allow for a multi-family development on the subject property (ATTACHMENT III).

- The subject property is currently vacant. It has 100 feet of frontage along 11th Street, 70 feet of frontage on 9th street, and a depth of 698 feet at its longest point. Eleventh Street is a two lane 37 feet wide with curb and gutter paved street (ATTACHMENT IV-VII).

- The surrounding properties are zoned Residential, Single Family ("R-1") District to the north and west, Residential, Multi-Family ("M-2") District and General Retail ("GR") District to the south, General Retail ("GR") District to the east and Residential, Multi-Family ("M-2") District to the west (ATTACHMENT III). The surrounding land uses consists of single family homes to the north, single family and multi-family uses to the south, the Sun Valley Commercial Plaza to the east, and single family homes and the Liberty Gardens Park to the west (ATTACHMENT VIII).
• The Future Land Use Plan (FLUP) component of the City of Harlingen One Vision One Harlingen Comprehensive Plan shows this area as low density residential
(ATTACHMENT IX). Although the requested rezoning is not consistent with the
Future Land Use Plan, it is consistent with the adjacent Residential, Multi-Family (“M-2”) zoning to the south and east of the subject property. It is also consistent with the multi-family uses to the south of the subject property.

• There was considerable opposition to the rezoning request during the Planning and Zoning Commission public hearing. Surrounding property owners expressed concern on the impact the multifamily development would have on the drainage in the area, since the subject area tends to flood during a heavy rainfall. They also expressed concern on the impact the multi-family development would have on the existing sewer system, since it tends to overflow and has a foul odor. There was also concern on how property values may be negatively impacted with a multi-family development in the area, and the possible rise in crime rate in the area.

### Funding (if applicable):

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

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

Finance Director’s approval:  
Yes  No  N/A

### Staff Recommendation:

Staff recommends approval.

City Manager’s approval:  
Yes  No  N/A

**Comments:**

City Attorney’s approval:  
Yes  No  N/A
**Attachment I**

**CITY OF HARLINGEN PLANNING AND ZONING DIVISION**

**MASTER APPLICATION**

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

<table>
<thead>
<tr>
<th>Project Address</th>
<th>J D # 80780</th>
<th>Nearest Intersection</th>
<th>11TH ST; E. WASHINGTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Proposed) Subdivision Name</td>
<td>SOUTHWELL SHOPPING CENTER</td>
<td>2 Lot 3</td>
<td>Block</td>
</tr>
</tbody>
</table>

| Existing Zoning Designation | SFH | Future Land Use Plan Designation | MULTI FAMILY |

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

<table>
<thead>
<tr>
<th>Applicant/Authorized Agent</th>
<th>John Timms</th>
<th>Phone</th>
<th>956-882-2726</th>
<th>FAX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Email Address (for project correspondence only)</td>
<td><a href="mailto:jtim@caol.com">jtim@caol.com</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mailing Address</td>
<td>PO BOX 131</td>
<td>City</td>
<td>SANTA BRENDA</td>
<td>State</td>
</tr>
<tr>
<td>Property Owner</td>
<td>Harlingen Town Center</td>
<td>Phone</td>
<td>210-416-6999</td>
<td>FAX</td>
</tr>
<tr>
<td>Email Address (for project correspondence only)</td>
<td><a href="mailto:reuben@cbgcre.com">reuben@cbgcre.com</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mailing Address</td>
<td>4629 MACKie DR</td>
<td>City</td>
<td>SAN ANTONIO</td>
<td>State</td>
</tr>
</tbody>
</table>

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

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

Please provide a basic description of the proposed project: **APARTMENTS**

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

Applicant's Signature: **John Timms**

Date: **9-10-2019**

Property Owner(s) Signature: 

Date: 

Accepted by: 

Date: 

3
RE-ZONING REQUEST
SUBMITTAL CHECKLIST

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

Complete:

- A metes and bounds description or survey plat of the tract(s) in which the re-zoning is requested.

- City and School Tax Certificates✓

- A written statement describing the proposed use(s) of the subject property (can be provided on Master Application).

Any other information (elevation drawings, pictures, etc.) in support of the subject request.

- I understand that I am requesting an amendment to the City's Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.

- I understand that in accordance with State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
  - A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
  - Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.

- I understand that while all requirements for the submittal of a re-zoning request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.

Owner: Harlingen Town Center LLC Date 6/22/19
Owner Address: ________________________________
Phone/Fax: ________________________________
Signature: ________________________________
City of Harlingen
Planning & Zoning Department

Re: __N. 11th Street, Harlingen, Texas
Lot 3, Sun Valley Shopping Center Subdivision, Unit 2
Appointment of Agent

To Whom It May Concern:

Harlingen Town Center, LLC owns the subject property located at __N. 11th Street in the City of Harlingen, Texas, under Cameron CAD ID#80780, more fully described on the attached Deed. The land is currently under contract to sell to John Timms.

By this letter, Harlingen Town Center, LLC grants authority to John Timms to act as its agent with respect to changing the zoning of the subject property to allow for residential apartments.

If you have any questions, please don’t hesitate to contact me at 210-424-8013 or Flint@CBGcmms

Sincerely,

[Signature]
Flint Bourgeois
General Counsel
Harlingen Town Center, LLC

Encl. Warranty Deed
Cameron CAD
Request of John Timms to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 3, Sun Valley Shopping Center Subdivision Unit No. 2, save and except 30 feet x 58.33 feet, located on the west side of 11th Street north of Washington Avenue.

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and stz, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 6.21.19.
Attachment V

VIEW FROM THE EAST ON 11TH STREET
Attachment VI

VIEW FROM THE NORTH ON 11TH STREET
VIEW FROM THE SOUTH ON 11 STREET
A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 4.3.19
ORDINANCE NO. 19

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN:
REZONING FROM RESIDENTIAL, SINGLE FAMILY ("R-1") DISTRICT TO RESIDENTIAL, MULTI-FAMILY ("M-2") DISTRICT FOR LOT 2, SUN VALLEY SHOPPING CENTER SUBDIVISION UNIT NO. 2, SAVE AND EXCEPT 30 FEET X 58.33 FEET, LOCATED ON THE WEST SIDE OF 11TH STREET NORTH OF WASHINGTON AVENUE;
PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

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

BE IT ORDAINED BY THE CITY OF HARLINGEN

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

Rezoning from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 2, Sun Valley Shopping Center Unit No. 2, save and except 30 feet x 58.33 feet,
located on the west side of 11th Street north of Washington Avenue.

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

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

FINALLY ENACTED this ______ day of ____________, 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 of John Timms to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 3, Sun Valley Shopping Center Subdivision Unit No. 2, save and except 30 feet x 58.33 feet, located on the west side of 11th Street north of Washington Avenue.
Public hearing and take action to consider a request to rezone from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District for Lot 3, Sun Valley Shopping Center Unit No. 2, save and except 30 feet x 58.33 feet, located on the west side of 11th Street north of Washington Avenue. Applicant: John Timms

Mr. Olivo summarized the following:

The applicant is requesting to rezone the subject property from Residential, Single Family ("R-1") District to Residential, Multi-Family ("M-2") District to allow for a multi-family development on the subject property.

The subject property is currently vacant. It has 100 feet of frontage along 11th Street and depth of 698 feet at its longest point. Eleventh Street is a two lane 37 feet wide with curb and gutter paved street.

The surrounding properties are zoned Residential, Single Family ("R-1") District to the north and west, Residential, Multi-Family ("M-2") District and General Retail ("GR") District to the south, General Retail ("GR") District to the east and Residential, Multi-Family ("M-2") District to the west (ATTACHMENT III). The surrounding land use consists of single family homes to the north, multi-family use to the south, the Sun Valley Commercial Plaza to the east, and single family homes and the Liberty Gardens Park to the west.

The Future Land Use Plan (FLUP) component of the City of Harlingen One Vision One Harlingen Comprehensive Plan shows this area as low density residential. Although the requested re zoning is not consistent with the Future Land Use Plan, it is consistent with the adjacent Residential, Multi-Family ("M-2") zoning to the south and east of the subject property. It is also consistent with the multi-family uses to the south of the subject property.

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

Staff recommends approval.

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

Chrm. Peacock opened the public hearing.

Mr. Gabriel Treviño who resides at 902 Pat Neff Ave. stated his concern with the current storm sewer system in place in this neighborhood area. He is stating that a future development in this area will make matters worse, due to constant flooding that happens when it there is heavy rain. His home was flooded before and believes this area being proposed for rezoning cannot substantiate a new development. Mr. Treviño also stated a concern about the possibility of higher crime rates in the area, with a new apartment development.

Ms. Coleen Mitchell who resides at 822 Pat Neff Ave. stated she is concerned with the current storm sewer system and the flooding that happens each time there is heavy rain. She is also concerned about the property value decreasing and the
crime going up with a new apartment development. Ms. Mitchell also stated that right under this property there is an underground canal, and believes it is not safe to develop anything on this property.

Mr. Jesus Balleza who resides on Pat Neff Ave. stated he is concerned about the property being safe to make a new development on it, since there is water that runs underneath and about the current storm sewer system that is not adequate due to the constant flooding when there is heavy rain.

Ms. Oralia Zuñiga Tanner who resides on 1026 Pat Neff Ave. stated that she is present to speak on behalf of her mother. She stated her concern about the possible decrease of the property values with a new multi-family development. Ms. Tanner is also concerned about the peacefulness of their neighborhood being disturbed if a new apartment development comes in place.

Mr. John Timms applicant to this request spoke in favor of his request and informed the members that the proposed future plan is to develop 21 one bedroom apartments. Mr. Timms stated that a new apartment development on this property will be very convenient to tenants who like to walk to get errands done.

Mr. Gabriel Treviño stated his concerned that although 21 new apartments doesn't seem like a lot, it is in fact 21 new families and is not in favor of a new development coming about due to the constant failure of the current storm sewer system.

Mr. John Timms stated there shouldn't be an issue with the residents who will potentially be to the back of this possible new apartment development.

Ms. Coleen Mitchel stated a concern if this new apartment development comes to pass, the developer will have to develop the apartments higher up which ultimately means the run-off water will be draining to Pat Neff Ave., and cause it to flood rapidly.

With no comments from the public and no additional questions from the board, Chrm. Peacock closed the public hearing.

Cmr. Lowry stated that before any new development comes to pass, there has to be much research and improvement infrastructure done. At this early stage for this item, this is only a request to rezone from an R-1 to M-2. Before a new development is approved there is still more steps to follow.

Cmr. Wolf stated that this rezoning request is simply just step one of many more steps to come about. Before any planning or designing is done, this first step must come about, in the future these plans can either fall through or come to pass, but in this first step, it is just to rezone.

Cmr. Lowry made a motion to approve the re-zoning request as per staff's recommendation. Cmr. Martinez seconded the motion. The motion carried unanimously.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: 10/22/2019

Agenda Item:
Public hearing and take action to consider an Ordinance on First Reading to rezone from Residential, Single Family (R1) District to General Retail (GR) District for Lot 9 and the west 23.78 ft. of Lot 10, Block 6, Crown Heights Addition located at 918 E. Grimes Avenue. Applicant: Aaron Medina

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

Brief Summary:

Project Timeline

- September 18, 2019 – Application for rezoning was submitted to the Planning Department. (ATTACHMENT I)
- September 28, 2019 – In accordance with Statute and local law, notice of required public hearings published in the Valley Morning Star and mailed to all property owners within 200 feet of subject tract.
- October 9, 2019 – Public hearing was conducted by the Planning and Zoning Commission (P&Z). The P&Z Commission recommended approval of the rezoning request by a 3 to 0 vote.
- October 22, 2019 – Public hearing and consideration of the rezoning request via 1st ordinance reading scheduled before the City Commission.
- November 6, 2019 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- The applicant is requesting to rezone the subject property from Residential, Single Family (R1) District to General Retail (GR) District to allow an expansion of a home health care center.
- The property is located on the south side of E. Grimes Ave., 100 ft. east of N. 9th Street. It has 80.06 ft. of frontage and a maximum depth of 140 ft. Grimes Ave. has 60 ft. of R.O.W. with 45 ft. of pavement, curb and gutter.
- Adjacent zoning is Single Family Residential (R1) District to the north, east and south, and General Retail (GR) District to the south and west. Surrounding land uses are single family residences and La Familia Home Health Care. (ATTACHMENT II-III)
- The property is currently vacant. The property owner would like to expand his current home health care business located on the adjacent property to the west. As per Code of Ordinances Section 111-62 Assisted living facilities are permitted by right in a General Retail (GR) District. (ATTACHMENT III-IV)
- Per the Code of Ordinances Section 111-119 the owner and/or developer shall provide and adequately maintain a solid screening fence not less than six feet in height in the rear yard.
of the property. The requirement of the fence shall be required every time there is a change in occupancy and/or the building is clear to be re-energized. A minimum rear yard of not less than ten feet shall be provided in O, NS, GR, LI and HI districts, dividing the district from any of the residential districts listed herein.

- Solid face front yard fences may be maintained at a height of no more than six feet up to lot line providing they do not obstruct traffic view for an approach of at least 15 feet on an approach to a street and ten feet on the approach to an alley.

- The Future Land Use Plan (FLUP) component of the City of Harlingen One Vision One Harlingen Comprehensive Plan shows this area as residential. Although the requested rezoning is not consistent with the Future Land Use Plan, it is consistent with the development trends in the areas to the west and south. (ATTACHMENT V)

- On October 4, 2019, Planning Staff received a phone call from a surrounding property owner. He/she had concerns with additional traffic flow in the residential areas as a result of the rezoning.

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<th>Funding (if applicable):</th>
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<td>Are funds specifically designated in the current budget for the full amount [ ] Yes [ ] No*</td>
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<th>Staff Recommendation:</th>
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<td>Staff recommends approval of the rezoning request.</td>
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<table>
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10/18/19
CITY OF HARLINGEN PLANNING AND ZONING DIVISION
MASTER APPLICATION

PROPERTY INFORMATION: (Please PRINT or TYPE)
Project Address: 918 E. Grimes Ave. Nearest Intersection.
(Proposed) Subdivision Name:
Existing Zoning Designation: Residential Future Land Use Plan Designation: General Retail

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)
Applicant/Authorized Agent: Aaron Medina
Email Address: medinaaron96@yahoo.com
Mailing Address: City State Zip
Property Owner: Sunil Prakath
Email Address: Realdealsunil@gmail.com
Mailing Address: 1315 FM 508 City Harlingen State TX Zip 78550

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

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

Please provide a basic description of the proposed project: To extend care building of La Familia Home Care @ 910 E. Grimes Ave or set up a separate building for a health care business.

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

Applicant's Signature:_________________________ Date: 18 Sep 2019

Property Owner(s) Signature:_________________________ Date: 18 Sep 2019

Accepted by:_________________________ Date:

Job No. 157-011
Request to rezone from Residential, Single Family (R1) District to General Retail (GR) District for Lot 9 and the west 23.78 ft. of Lot 10, Block 6, Crown Heights Addition located at 918 E. Grimes Avenue. Applicant: Aaron Medina
Future Land Use Map

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

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 4.3.19.
ORDINANCE NO. 19

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM RESIDENTIAL, SINGLE FAMILY (R1) DISTRICT TO GENERAL RETAIL (GR) DISTRICT FOR LOT 9 AND THE WEST 23.78 FT. OF LOT 10, BLOCK 6, CROWN HEIGHTS ADDITION LOCATED AT 918 E. GRIMES AVENUE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

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

BE IT ORDAINED BY THE CITY OF HARLINGEN

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

Rezoning from Residential, Single Family (R1) District to General Retail (GR) District for Lot 9 and the west 23.78 ft. of Lot 10, Block 6, Crown Heights Addition located at 918 E. Grimes Avenue.

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

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

FINALLY ENACTED this ___ day of __________, 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 Residential, Single Family (R1) District to General Retail (GR) District for Lot 9 and the west 23.78 ft. of Lot 10, Block 6, Crown Heights Addition located at 918 E. Grimes Avenue. Applicant: Aaron Medina

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Public hearing and take action to consider a request to rezone from Residential, Single Family (R1) District to General Retail (GR) District for Lot 9 and the west 23.78 ft. of Lot 10, Block 6, Crown Heights Addition located at 918 E. Grimes Avenue. Applicant: Aaron Medina

Mr. Garces Summarized the following:

The applicant is requesting to rezone the subject property from Residential, Single Family (R1) District to General Retail (GR) District to allow an expansion of a home health care center.

The property is located on the south side of E. Grimes Ave., 100 ft. east of N. 9th Street. It has 80.06 ft. of frontage and a max depth of 140 ft. Grimes Ave. has 60 ft. of R.O.W. with 45 ft. of pavement, and curb and gutter.

Adjacent zoning is Single Family Residential (R1) District to the north, east and south, and General Retail (GR) District to the south and west. Surrounding land uses are single family residences and La Familia Home Health Care.

The property is currently vacant. The property owner would like to expand his current home health care business located on the adjacent property to the west. As per Code of Ordinances Section 111-62 Assisted living facilities are permitted by right in a General Retail (GR) District.

Per the Code of Ordinances Section 111-119 the owner and/or developer shall provide and permanently and adequately maintain a solid screening fence not less than six feet in height in the rear yard of the property. The requirement of the fence shall be required every time there is a change in occupancy and/or the building is clear to be re-energized. A minimum rear yard of not less than ten feet shall be provided in O, NS, GR, LI and HI districts, dividing the district from any of the residential districts listed herein.

Solid face front yard fences may be maintained at a height of no more than six feet up to lot line providing they do not obstruct traffic view for an approach of at least 15 feet on an approach to a street and ten feet on the approach to an alley.

The Future Land Use Plan (FLUP) component of the City of Harlingen Comprehensive One Vision One Harlingen shows this area as residential. Although the requested rezoning is not consistent with the Future Land Use Plan, it is consistent with the development trends in the areas to the west and south.

On October 4, 2019, Planning Staff received a phone that had concerns with additional traffic flow in the residential area.

Staff recommends approval of the rezoning request.

Chrm. Peacock asked if there were any questions for staff. There was none.

Chrm. Peacock opened the public hearing.

Ms. Alma Palacios had a concerned if the properties she owns will also be getting a rezoning change.
Mr. Allan Garces answered, no, that only the one lot that requested this rezoning will be getting changed.

Cmr. Martinez made a motion to approve the re-zoning request as per staff's recommendation. Cmr. Wolf seconded the motion. The motion carried unanimously.
AGENDA ITEM  
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Consideration and possible action to approve and adopt an Ordinance on First Reading to regulate and reduce pollution that enters the surface water in the State of Texas and waters of the United States from discharges into the City’s municipal separate storm sewer system, by providing for the detection and elimination of illicit connections to the storm sewer system and requiring erosion control and pollution prevention at construction sites, and to establish penalties and an effective date. Applicant: City of Harlingen

Prepared By: Xavier Cervantes, AICP
Title: Planning and Development Director
Signature: X. Cervantes

Brief Summary:
Pursuant to the Clean Water Act and the Texas Pollution Discharge Elimination System General Permit TXR040000, as it may be amended, the City of Harlingen is required to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants into the City’s streets, gutters, ditches, and storm drains, and to the surface waters of the State, and the surface waters of the United States, to the maximum extent practicable.

The City’s stormwater management program must include six minimum control measures: (1) public education and outreach on storm water impacts; (2) public involvement and participation; (3) illicit discharge detection and elimination; (4) construction site storm water runoff control; (5) post-construction storm water management in new development and redevelopment; and (6) pollution prevention and good housekeeping for municipal operations.

The attached ordinance incorporates the required six minimum control measures for the City’s stormwater management program, with the intent of reducing pollution and contamination entering the City’s separate stormwater sewer system (MS4) to the greatest extent practicable.

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

Finance Director’s approval: Yes No N/A

Staff Recommendation:
Staff recommends approval subject to the ordinance.

City Manager’s approval: Yes No N/A

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

10/18/19
ORDINANCE

AN ORDINANCE OF THE CITY OF HARLINGEN TO
REGULATE AND REDUCE POLLUTION THAT ENTERS THE
SURFACE WATER IN THE STATE OF TEXAS AND WATERS
OF THE UNITED STATES FROM DISCHARGES INTO THE
CITY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM, BY
PROVIDING FOR THE DETECTION AND ELIMINATION OF
ILLEGIT CONNECTIONS TO THE STORM SEWER SYSTEM
AND REQUIRING EROSION CONTROL AND POLLUTION
PREVENTION AT CONSTRUCTION SITES, AND TO
ESTABLISH PENALTIES AND AN EFFECTIVE DATE

WHEREAS, the City of Harlingen, a home-rule city of the State of Texas, may adopt and
enforce ordinances necessary to protect health, life, property and the general welfare of the
City and its residents and visitors; and

WHEREAS, pursuant to the Clean Water Act and Texas Pollution Discharge Elimination System
General Permit TXR040000, as it may be amended, the City of Harlingen is required to develop,
implement, and enforce a stormwater management program designed to reduce the discharge of
pollutants into the City's streets, gutters, ditches, and storm drains, and to the Surface Water in
the State, and the Waters of the United States, to the maximum extent practicable; and,

WHEREAS, the City's stormwater management program must include six minimum control
measures: (1) public education and outreach on stormwater impacts; (2) public involvement and
participation; (3) illicit discharge detection and elimination; (4) construction site stormwater
runoff control; (5) post-construction stormwater management in new development and
redevelopment; and (6) pollution prevention and good housekeeping for municipal
operations; and,

WHEREAS, implementation of best management practices consistent with the provisions of
the City's stormwater management program constitutes compliance with the standard of
reducing pollutants to the "maximum extent practicable;" and,

WHEREAS, the City of Harlingen and its planning area are located within the watershed of
the Arroyo Colorado and all the stormwater run-off from the City of Harlingen and its
planning area flows into the Arroyo Colorado; and the Arroyo Colorado flows into the Laguna
Madre; and,
WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has determined that the Arroyo Colorado is an impaired water body that does not meet its aquatic life use primarily due to low-dissolved oxygen, but also due to high levels of nutrients and sedimentation and suspended solids; and,

WHEREAS, TCEQ in 2003 estimated that a ninety percent (90%) reduction in nitrogen, phosphorous, biological oxygen demanding substances and sediment will be necessary for the Arroyo Colorado to meet aquatic life water quality standards; and

WHEREAS, other sources of pollution that may contaminate stormwater include erosion of disturbed land at construction sites, the deliberate or inadvertent discharge of material or substances other than stormwater directly or indirectly into storm drains, and stormwater runoff from roof tops, parking lots, and yards and lawns treated with excess fertilizer and pesticides; and,

WHEREAS, natural materials such as leaves and grass clippings are beneficial to gardens and soil as mulch and a soil amenity but constitute pollution when they enter waterways because the decomposition of these materials consumes oxygen in the water that is needed by fish; and,

WHEREAS, improper management of stormwater and control of erosion reduces capacity of the City's drainage infrastructure and causes additional maintenance needs and expenses, and,

WHEREAS, the City of Harlingen recognizes that protecting and improving water quality in the Arroyo Colorado will contribute to an improved quality of life and the general welfare of the residents of Harlingen;

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

SECTION I: The City of Harlingen Code of Ordinances is amended to add Chapter 16, Article III which shall be titled:

POLLUTION PREVENTION IN STORMWATER.

Sec. 16.40 – Intent and Purpose

This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) of the City of Harlingen in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this ordinance are:

- To regulate pollutants from stormwater discharges into and from the MS4;
- To prohibit illicit connections and discharges to the MS4;
- To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
• To enforce compliance with the permittee’s ordinances, permits, contracts, or orders;
• To require installation, implementation, and maintenance of control measures;
• To receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
• To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this Ordinance;
• To respond to non-compliance with Best Management Practices (BMPs) required by the small MS4 consistent with its ordinances or other regulatory mechanism(s);
• To assess penalties, including monetary, civil, or criminal penalties; and
• To enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

Sec. 16.41 – Definitions

Applicant - Property owner or agent of a property owner who filed an application for a stormwater authorization under a TPDES general permit or an individual TPDES permit.

Authorized Enforcement Agency - Employees or designees of the City Manager of the City of Harlingen or the Texas Commission on Environmental Quality (TCEQ) have authority to enforce this Ordinance and/or the TPDES regulations.

Best Management Practices (BMPs) – Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

Building - Any structure, either temporary or permanent, with walls and a roof, designed to shelter a person, animal, or property, and occupying more than 100 square feet of area.

City or the City – The City of Harlingen, Texas including all departments and Harlingen WaterWorks System (HWWS).


Common Plan of Development or Sale – A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development or sale is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

Construction Activity – Soil disturbance, including clearing, grading, excavating, and other construction related activities (e.g., stockpiling of fill material and demolition); and not including
routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

Small Construction Activity is construction activity that results in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land.

Large Construction Activity is construction activity that results in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land.

Construction Site Operator – The entity or entities associated with a small or large construction project that meet(s) either of the following two criteria:

(a) The entity or entities that have operational control over construction plans and specifications (including approval of revisions) to the extent necessary to meet the requirements and conditions of the general permit; or

(b) The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

Contaminated Water – Any water that contains levels of introduced pollutants which render it unsuitable for or unable to support a human use, such as being used for drinking water, or pollutants that alter its ability to support the biological life within it. Sources of contamination may include point source water pollution (contamination that enters the water system via one certain, identifiable source such as a pipe or ditch, municipal sewage systems or industrial and construction sites) or non-point sources referring to contamination that is spread over a large area (runoff from agricultural lands that are not piped or channelized or general stormwater runoff).

Control Measure – Any BMP or other method used to prevent or reduce the discharge of pollutants to water in the state.

Conveyance – Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

Discharge – When used without a qualifier, refers to the discharge of stormwater runoff or certain non-stormwater discharges as allowed under the authorization of the general permit.
Final Stabilization – A construction site where any of the following conditions are met:

(a) All soil disturbing activities at the site have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

(b) For individual lots in a residential construction site by either:

(1) The homebuilder completing final stabilization as specified in condition (a) above; or

(2) The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization.

(c) For construction activities on land used for agricultural purposes (for example pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.

(d) In arid, semi-arid, and drought-stricken areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:

(1) Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the operator, and

(2) The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

General Permit – A permit issued to authorize the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code (TWC) §26.040. For the purposes of this ordinance general permit refers to the Small MS4 General Permit, TPDES General Permit TXR040000.

Ground Water Infiltration - groundwater that enters the MS4 (including storm sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.
Hazardous Materials - Any item or agent (biological, chemical, physical) that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

Hazardous Waste - a hazardous waste is a waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment. Hazardous waste is generated from many sources, ranging from industrial manufacturing process wastes to batteries and may come in many forms, including liquids, solids gases, and sludges (www.epa.gov).

Hyperchlorinated Water – Water resulting from hyperchlorination of waterlines or vessels, with a chlorine concentration greater than 10 milligrams per liter (mg/L).

Illicit Connection - any man-made conveyance connecting an illicit discharge directly to the MS4.

Illicit Discharge – any discharge to the MS4 that is not entirely composed of stormwater, except discharges allowed pursuant to state and federal law, including TPDES or NPDES permits allowing stormwater discharge or a separate authorization and discharges resulting from emergency fire fighting activities.

Indicator Pollutant – An easily measured pollutant, that may or may not impact water quality that indicates the presence of other stormwater pollutants.

Industrial Activities – Any of the ten (10) categories of industrial activities included in the definition of “stormwater discharges associated with industrial activity” as defined in 40 Code of Federal Regulations (CFR) §122.26(b)(14)(i)-(ix) and (xi).

Land Disturbance (or Soil Disturbance) – any activity which involves the physical movement or disturbance of earth material by mechanized means. This includes excavating, filling, stockpiling, clearance of vegetation, grading, compaction of soil, creation of borrow pits, or combination thereof. Land disturbance does not include plowing, seeding, planting, cultivating, or harvesting on a farm, including lands that have been lying fallow as part of a conventional rotational cycle. Land disturbance does not include routine maintenance performed to maintain the original line and grade, hydraulic capacity and purpose of a ditch, channel or other similar stormwater conveyance. Land disturbance does not include routine grading of existing dirt roads, asphalt overlays of existing roads, routine clearing of existing right-of-ways or other similar maintenance activities.

Maintenance Agreement - A formal contract between a local government and a property owner to guarantee long-term maintenance of stormwater management practices.

Maintenance Easement – A portion of the maintenance agreement that binds all current and subsequent owners of the land served by the stormwater management facility to allow the City of Harlingen or their agent access to the facility to periodically inspect the facility, verify it is in proper working condition and meets the design standards and other provision established by the
ordinance. For the purposes of this ordinance, maintenance easement is synonymous with drainage easement.

*Maximum Extent Practicable* – The technology-based discharge standard for municipal separate storm sewer systems (MS4s) to reduce pollutants in stormwater discharges that was established by the CWA § 402(p). A discussion of MEP as it applies to small MS4s is found in 40 CFR § 122.34.

*Municipal Separate Storm Sewer System (MS4)* – the conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains that are owned or operated by the City of Harlingen, the Cameron County Irrigation Districts, Cameron County or the Texas Department of Transportation and that are designed or used for collecting or conveying stormwater; but which are not a combined sewer (sanitary sewer or stormwater) and are not part of the City’s sanitary sewer collection system.

*MS4 Operator* - for the purpose of this ordinance, the City of Harlingen.

*Non-Stormwater Discharge* - Any discharge to the storm drain system that is not composed entirely of stormwater.

*NPDES* - National Pollution Discharge Elimination System

*Outfall* – A point source at the point where a small MS4 discharges to waters of the U.S. and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S. For the purpose of this ordinance, sheet flow leaving a linear transportation system without channelization is not considered an outfall. Point sources such as curb cuts; traffic or right-or-way barriers with drainage slots that drain into open culverts, open swales or an adjacent property, or otherwise not actually discharging into waters of the U.S. are not considered an outfall.

*Overflow* – An unauthorized flow of untreated or partially treated wastewater from a collection system or from a treatment unit at a wastewater treatment facility.

*Person* - Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner’s agent.

*Point Source* – (from 40 CFR § 122.22) any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

*Pollutant* – In accordance with the Texas Water Code, §26.001(13) a pollutant includes the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter
backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state.

**Pollutants of Concern** – For the purpose of this ordinance, includes biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids (TSS), turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from an MS4. (Definition from 40 CFR § 122.32(e)(3)).

**Premises** - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Release** - any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into ground-water, subsurface soils, surface soils into the MS4, the Surface Water of the State, or the Waters of the United States.

**Sanitary Sewer Overflow (SSO)** - a type of unauthorized discharge of untreated or partially treated wastewater from a collection system or its components (e.g., a manhole, lift station, or cleanout) before reaching a treatment facility. [See also Texas Water Code Paragraph 26.049(e)(4).]

**Site Development Permit** – a permit issued by the City of Harlingen for the alteration of the ground for the construction or installation of utilities, streets, sidewalks, structures designed to control erosion and run-off and other grading activities that are not a part of a project that requires a building permit.

**Stormwater and Stormwater Runoff** - rainfall runoff, snow melt runoff, and surface runoff and drainage.

**Stormwater Associated with Construction Activity** - Stormwater runoff from an area where there is either a large construction or a small construction activity.

**Stormwater Management** - The use of structural or non-structural control practices/BMPs designed to reduce stormwater pollutant runoff, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality.

**Stormwater Management Facility** – A dedicated portion of a parcel or multiple parcels of land used to manage stormwater which ultimately discharges into the City of Harlingen’s MS4.

**Stormwater Management Program (SWMP)** - A comprehensive program to manage the quality of discharges into and from the City of Harlingen’s MS4.

**Stormwater Pollution Prevention Plan (SWP3)** - A document that describes the Best Management Practices and activities to be implemented by the permit holder to identify sources of pollution or contamination at a site and actions to eliminate or reduce pollutant discharges.
Stormwater Control Practices - Structural or nonstructural measures to minimize stormwater runoff to surface water in the state.

Structural Control (or Practice) – A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: wet ponds, bioretention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

Surface Water in the State - lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico from the mean high water level out 10.36 miles into the Gulf, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Total Maximum Daily Load (TMDL) - The total amount of a substance that a water body can assimilate and still meet the Texas Surface Water Quality Standards.

TPDES - Texas Pollution Discharge Elimination System

Traditional Small MS4 - A small MS4 that can pass ordinances and have the enforcement authority to enforce the stormwater management program. An example of traditional MS4s includes cities.

Unauthorized Discharge (UD) - Any direct or indirect non-stormwater discharge to the storm drain system except as exempted in Section 16.44 Prohibition of Illicit Connections of this Ordinance

Urbanized Area (UA) - An area of high population density that may include multiple small MS4s as defined and used by the U.S. Census Bureau in the 2000 and the 2010 Decennial Census.

Waters of the United States -

a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

b) all interstate waters, including interstate wetlands;

c) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or
could affect interstate or foreign commerce including any such waters:

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes;

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) which are used or could be used for industrial purposes by industries in interstate commerce;

d) all impoundments of waters otherwise defined as waters of the U.S.;

e) tributaries of waters identified in paragraphs (a) through (d) of this definition;

f) the territorial sea; and

g) wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA are not waters of the U.S. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the U.S. (such as disposal area in wetlands) nor resulted from the impoundment of waters of the U.S. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

Wetland - an area that is inundated or saturated by surface or ground-water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 16.42 – Applicability

Unless exempted, this Ordinance applies to discharges entering the storm drain system within the jurisdictional limits of the authorized enforcement agency.

Sec. 16.43 – Responsibility for Administration

The City of Harlingen shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the City Manager of the City of Harlingen may be delegated in writing by the City Secretary of the City of Harlingen to persons or entities acting in the beneficial interest of the City of Harlingen.
Authorized individual(s) under this Section shall have the authority to enforce this Ordinance in its entirety and shall be designated as a TPDES Stormwater Manager and/or Inspector. Any person subject to an industrial or construction TPDES stormwater discharge permit or authorization shall comply with all provisions of the permit and may be required by the City of Harlingen to have authorization to discharge stormwater into the MS4.

Sec. 16.44 – Prohibition of Illicit Connections and Discharges

A. — Authority to Prohibit

The City of Harlingen has the authority to prohibit illicit discharges and illicit connections in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)a. This Ordinance prohibits unauthorized discharges into the storm drain system. No person shall release discharges into the municipal storm drain containing any pollutants that cause or contribute to a violation of water quality standards, other than stormwater or authorized non-stormwater discharges.

B – Allowable Non-Stormwater Discharges

The following non-stormwater sources may be discharged from the City of Harlingen’s MS4 and are not required to be addressed in the City of Harlingen’s MS4’s Illicit Discharge and Detection or other minimum control measures, unless they are determined by the City of Harlingen or the TCEQ to be significant contributors of pollutants to the small MS4, or they are otherwise prohibited by the City of Harlingen:

1. Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
2. Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
3. Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
4. Diverted stream flows;
5. Rising ground waters and springs;
6. Uncontaminated ground water infiltration;
7. Uncontaminated pumped ground water;
8. Foundation and footing drains;
9. Air conditioning condensation;
10. Water from crawl space pumps;
11. Individual residential vehicle washing;
12. Flows from wetlands and riparian habitats;
13. Dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;
14. Street wash water excluding street sweeper waste water;
15. Discharges or flows from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
16. Other allowable non-stormwater discharges listed in 40 CFR § 122.26(d)(2)(iv)(B)(1);
17. Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000;
18. Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted; and
19. Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.

C - Prohibited Discharges

(1) No person shall deposit, release, throw, drain, cause or allow to be deposited, released thrown, drained or discharged, or otherwise cause to enter the MS4, or any other drainage device which connects with the MS4, any of the following described materials or substances:

- a) Any acidic waste materials (having a pH value lower than 6);
- b) Any alkaline waste materials (having a pH value higher than 10.5);
- c) Any water or waste containing free-floating, or insoluble oil; gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;
- d) Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life, or property; or
- e) Any domestic wastewater or industrial wastewater.

(2) It shall be a defense to prosecution under this section that such person was authorized to commit any act, under a valid permit from the TCEQ or the US EPA, which would otherwise constitute a violation at the time of commission.

(3) No person shall place or drop or cause or allow to be placed or dropped, brush cuttings, clippings, or rubbish within the MS4 or on any street in the City in such a manner that the same maybe washed by the flow of water into the MS4.

(4) No person shall connect a line conveying sanitary sewage, domestic waste, or industrial effluent to the MS4 or allow such a connection to continue.

(5) No person shall remove or modify any sanitary sewer cleanouts, sanitary sewer manhole covers or other components of a wastewater collection or transmission system in such a manner as to allow wastewater to overflow from the wastewater collection system, resulting in any unauthorized discharge or sanitary sewer overflow.

(6) No person shall discharge or release, or allow or permit the discharge or release of any of the following substances in a manner or location by which such substance may enter the City's MS4:
a) any wash water or wastewater from the washing or cleaning of pavement, including but not limited to parking lots, driveways or carports, that contains soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other cleaning substance other than water;
b) any wash water or wastewater from cleaning of any pavement where a spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed or pretreated;
c) any wash water from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
d) gasoline, motor oil, used oil filters, wax, grease, antifreeze or any other motor vehicle fluids;
e) any contaminated water or waste from a commercial car wash facility, from any vehicle washing, cleaning, or maintenance area at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, maintenance facility, or from any washing, cleaning, or maintenance area of any commercial or public service vehicle, including any truck, bus, or piece of heavy equipment, by any business or public entity;
f) any contaminated water or waste from commercial establishments including but not limited to gas stations, service stations, and auto repair shops with areas exposed to weather conditions;
g) material from an oil/water separator or an oil/water interceptor, grit trap or grease trap. Any oil/water separator or interceptor users who are discharging to the MS4 shall notify the city of the existence of such connections to the MS4 within sixty (60) days of the effective date of this ordinance. If such notification is not made during the allocated sixty (60) days, then the detected connections to MS4 of an oil/water separator or interceptor shall be considered an illicit connection and the city reserves the right to terminate such connection immediately, without prior notice;
h) any release from a petroleum underground storage tank (PUST), or any leachate or runoff from soil contaminated by a leaking PUST, or any discharge of pumped, confirmed, or partially treated wastewater from the remediation of any such PUST unless release satisfies all of the following criteria: (a) is in compliance with all municipal, state, and federal laws; (b) no discharge contains any harmful quantity of any pollutant; and (c) the discharge shall not have a pH value lower than 6.0 or higher than 10.5;
i) any public or private underground utility manhole, including but not limited to electric power, gas pipeline, cable companies, telephone companies, the collected water, due to rain, surface runoff, cross connection, or illegal discharge;
j) any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
k) any type of wastewater from residential, commercial or industrial sources, any domestic sewage or septic tank waste;
l) any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
m) any swimming pool water or filter backwash from a swimming pool or fountain,
discharge from a water line if it has been disinfected by super-chlorination or other means and the total residual chlorine exists in any harmful quantity or any other chemical has been used in line disinfection.

n) discharges of stormwater mixed with non-stormwater unless the non-stormwater is described in part B of this section or authorized under a separate TPDES or NPDES permit,

o) hazardous materials; or

p) pollutants

(7) No person shall apply used oil or other vehicle fluid to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil contamination into the environment.

(8) No person shall introduce any type of hazardous waste generated in and around a household including, but not limited to batteries, used paints, solvents, used pesticide, and used toiletries into the MS4.

(9) No person shall use, dispose of, discard, store, or transport an insecticide, herbicide, or fertilizer, in a manner inconsistent with the proper usage, storage, transport and disposal set out in the labeling in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), such that a harmful quantity of the pesticide, herbicide, or fertilizer may enter the MS4.

(10) No person shall wash a commercial dumpster, or residual ready mix concrete from concrete mixing trucks, in an area where it discharges into the MS4.

(11) Other discharges as prohibited in the general permit.

Sec. 16.45 – Response to Releases

A - City Response

The City of Harlingen has the authority to respond to and contain other releases. The local jurisdiction must control the discharge of a spill and prohibit dumping or disposal of material other than stormwater and authorized non-stormwater discharges into the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)b. Any person in violation of this Ordinance may risk having their discharge authorization to the MS4 terminated. The authorized enforcement agency will notify the violator of the proposed termination of its authorization. The violator may petition the City of Harlingen to reconsider and schedule a hearing.
When the person responsible has knowledge of any known or suspected release of materials resulting in or potentially resulting in unauthorized discharges into a storm sewer system or surface water in the state, the person must contain and clean up the release. If hazardous materials are released, the person must immediately notify emergency response agencies. If non-hazardous materials are released, the person must notify the authorized enforcement agency no later than the next business day. Notifications in person or by telephone must be confirmed by written notice addressed and mailed to the City of Harlingen within fifteen (15) days of the incident.

During emergency situations involving unauthorized discharges from illicit connections, the City of Harlingen may suspend a person's MS4 authorization to stop an actual or threatened discharge which may present danger to the MS4 or surface water in the state. If the violator fails to comply, the authorized enforcement agency may take necessary steps to prevent or minimize damage to the MS4 or surface water in the state.

B - Mandatory Reporting and Clean-up of Any Discharge or Release

(1) The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, disposing, or any other release of any of the following quantities of any of the following substances that may enter the MS4, Surface Water of the State or Waters of the U.S., shall immediately notify by telephone the Harlingen police department concerning the incident:

(a) An amount equal to or in excess of a reportable quantity of any hazardous or extremely hazardous substance, as established under 40 CFR Parts 302 and 355, respectively;

(b) An amount of oil that either (a) violates applicable water quality standards, or (b) causes a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or

(c) Any harmful quantity of any pollutant.

(2) The immediate notification required shall include the following information:

(a) The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;

(b) The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;

(c) The time and duration (thus far) of the release;

(d) An estimate of the quantity and concentration (if known) of the substance released;

(e) The source of the release;
(f) Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;

(g) Any precautions that should be taken as a result of the release;

(h) Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and

(i) The names and telephone numbers of the person or persons to be contacted for further information.

(3) Within fifteen (15) days following such reportable release, the responsible person in charge of the facility, vehicle, or other source of the release shall submit, unless waived by the city, a written report containing the information specified above in (2)(a) through (i) as well as the following additional information:

(a) The ultimate duration, concentrations, and quantity of the release;

(b) All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;

(c) Any known or anticipated acute or chronic health risks associated with the release;

(d) The identity of any governmental or private sector representatives responding to the release; and

(e) The measures taken or to be taken by the responsible persons to prevent similar future occurrences.

(4) The person in charge of any facility that experiences an unauthorized discharge (UD) or sanitary sewer overflow (SSO) is responsible for reporting unauthorized discharges from the collection system in accordance with Title 30, Texas Administrative Code (30 TAC), Section 327.32. In addition, notify the public may be required under certain criteria. All such discharges must be reported to the TCEQ regardless of volume, as federal and state regulations do not have a specified minimum reporting volume. Notification to TCEQ shall include the date, location, volume, and contents of the UD or SSO to the TCEQ Region 15 office, 956-425-6010, as soon as possible but no later than 24 hours after becoming aware of the event.

(5) The notifications required by subsections (2) and (3) shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to city ordinance, or state or federal law.
(6) Any person responsible for any release as described in this subsection shall comply with all state, federal, and local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.

(7) Any person responsible for a release described in this subsection shall reimburse the city for any cost incurred by the city in responding to the release.

C. – Abatement of Illicit Conditions and Assessment and Collection of Expenses

The City may abate illicit discharges in the same manner and according to the same procedures provided for by ___ of the City Code of Ordinances and assess and collect any expenses incurred in the manner and procedure provided by ___.

Sec. 16.46 – Permit Procedures and Requirements

A. – Authority to Require Compliance

The City of Harlingen can enforce compliance with the permittee’s ordinances, permits, contracts, or orders in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)c.

B. – Permit Required

Unless specifically excluded by this Ordinance, the land owner or operator seeking a permit for land disturbance activity shall submit to the local jurisdiction a permit application on a form provided for that purpose. The permit application must be accompanied by the following: a stormwater management plan (as referenced in Section IX “Requirements for Stormwater Management Plan Approval” in this Ordinance); a stormwater maintenance agreement and a non-refundable permit review fee. Note that TPDES Construction General Permit TXR150000 requires regulated construction activities (those disturbing one acre or more) to provide a signed and certified construction site notice to the operator of any MS4 receiving the construction site stormwater discharge prior to commencement of land disturbing activities. See TXR150000 Part II Sections E. 1.(f), 2.(c), and 3.(d) and (f).

C. – Application Review Fee

The land development application fee shall be based on the amount of land to be disturbed, and the fee structure shall be established by the City of Harlingen as listed in ___.

D. – Application Procedure

• Applications for land disturbance activity permits must be filed with the City of Harlingen Environmental Department on any regular business day.
• Permit applications shall include the following: two hard copies and one digital copy of the stormwater management plan, two hard copies and one digital copy of the maintenance agreement, and any required review fees.
Within Thirty (30) business days of receipt of a complete permit application, the City of Harlingen shall inform the applicant whether the application, stormwater management plan, and maintenance agreement are approved or disapproved.

If the permit application, final stormwater management plan, and maintenance agreement are approved by the City of Harlingen, all appropriate land disturbance activity permits may be issued.

Sec. 16.47 – Maintenance and Repair of Stormwater Facilities

A – Authority to Require Installation, Implementation, and Maintenance

The City of Harlingen has the authority to require installation, implementation, and maintenance of control measures in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)d.

B – Maintenance Easement

Prior to the issuance of any permit that has a stormwater management facility the applicant of the site must implement a maintenance easement agreement that binds all subsequent owners of land served by the stormwater management facility. The agreement allows the City of Harlingen or their contractor/agent access to the facility to periodically inspect if the facility is maintained in proper working condition and meets design standards and other provisions established by this Ordinance. The easement agreement shall be recorded by plat or separate instrument through the official records for Cameron County.

C – Maintenance Covenants

The applicant of an industrial site, commercial site, or residential site with a Home Owners Association must develop a maintenance covenant articulating a schedule of maintenance activities and plans for periodic inspections to assess the proper functioning of the stormwater management facility. The maintenance covenant shall be approved by the City of Harlingen prior to final plan approval. Maintenance covenants shall not be required for any site covered under the Multi-Sector General Permit TXR 050000.

D – Requirements for Annual Self-Inspections

All stormwater management facilities must undergo, at minimum, an annual self-inspection to document maintenance and repair needs and to verify compliance with the requirements of this Ordinance. Maintenance and repair may include: removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes; cutting grass and vegetation removal; and replacement of landscape vegetation. Maintenance needs must be addressed in a timely manner as determined by the City of Harlingen. The local jurisdiction may implement more stringent inspection and maintenance requirements.

E – Requirements for Annual Self-Inspections
If the stormwater management facility becomes a danger to public safety or public health, the City of Harlingen shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to meet maintenance and repair requirements. If the owner of the facility fails to comply with the requirements of the maintenance covenant, the City of Harlingen, after reasonable notice, may perform all necessary work to bring the facility into compliance.

Sec. 16.48 - Requirements for Stormwater Management Plan Approval

The City of Harlingen has the authority to receive and collect information (i.e. stormwater pollution prevention plans, inspection reports, etc.) from any person (i.e. operators of regulated construction sites, new or redeveloped land, and industrial and commercial facilities) in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2).e to assess compliance with this permit.

A. - General provisions

The intent of this section is to implement and enforce a program to reduce pollutants in stormwater runoff from construction activities. To that end, all construction site operators, at a minimum, must:

1. As a pre-condition to receiving a building permit for a small construction site, prepare and submit a stormwater pollution prevention plan (SWP3);

2. For projects that do not require a building permit, but will require excavation, fill or grading or more than one acre of land, such as the construction or installation of utilities, new drainage ways, streets, or sidewalks, apply for a site development permit and prepare and submit a SWP3;

3. Except, no SWP3 is required to perform emergency work needed to protect life or property;

4. For construction sites that will disturb less than one acre of land, the following provisions apply:
   a) No SWP3 need be prepared or submitted.
   b) Construction site operators are responsible for retaining all soil and sediment on-site and off of adjacent properties and the public right-of-way. This includes dust control and control of vehicle tracking of dirt off-site.
   c) Soil and sediment that leaves the construction site must be cleaned-up daily.
   d) Proper provision for solid waste, construction debris and sanitary waste must be made and maintained.

5. The operator of a construction site, required to have a TPDES permit to discharge stormwater shall submit a copy of the Notice of Intent (NOI) to the City at the same time the
operator submits the original NOI to the TCEQ. The copy of the NOI may be delivered to the City either in person or by mailing it to: Planning and Development Director, City of Harlingen, 502 East Tyler Avenue, Harlingen, TX 78550.

B. - Stormwater Pollution Prevention Plan (SWP3)

1. Prior to commencing any construction activity and prior to receiving a building or site development permit from the City, construction site operators that are required by the NPDES or the TPDES to obtain a permit to discharge stormwater must:

   a) develop and submit for review and approval a SWP3 that covers the entire site;
   b) post a signed copy of the notice at the construction site where it can be readily viewed;
   c) ensure the project specifications allow or provide that adequate BMPs will be developed and modified as necessary to meet the requirements of the SWP3; and
   d) ensure all contractors and sub-contractors are aware of the requirements of the SWP3, that on-site personnel are responsible for the day-to-day implementation of and adherence to the SWP3, and who to contact concerning SWP3 compliance.

2. The SWP3 must:

   a) be completed and initially implemented prior to commencing activities that result in land disturbance;
   b) provide for compliance with the terms and conditions of this ordinance and the NPDES and TPDES for stormwater;
   c) be available at the construction site or readily available at the time of an on-site inspection to TCEQ, the EPA, or City personnel;
   d) be amended whenever there is a change in design, construction, operation, or maintenance that may have a significant effect on the discharge of pollutants or that was not been previously addressed in the SWP3; or because inspections by the site operator, TCEQ, EPA or City indicate the SWP3 is ineffective in eliminating or minimizing pollutants in discharges.
   e) identify the person or persons responsible for the implementation of the plan.

C. - Issuance of a Building Permit or Site Development Permit

Before authorizing the issuance of a building permit or a site development permit, the City will review the proposed site plan and SWP3, as well as construction documents, for compliance with this ordinance and the NPDES and TPDES for stormwater;

D. - City Inspection of Construction Sites

City building inspection, code compliance and public works staff and the city engineer are hereby authorized to inspect construction sites for the purpose of ensuring compliance and enforcement of control measures contained in the SWP3s and this ordinance.
E. - Contents of the Stormwater Pollution Prevention Plan

The Stormwater Pollution Prevention Plan (SWP3) required pursuant to this ordinance, the Clean Water Act, NPDES, and TPDES must include the following information.

(1) The SWPS must include a project description which includes the following: (a) the nature of the construction activity, potential pollutants and sources; (b) the intended schedule or sequence of major activities that will disturb soils;

(c) the number of acres of the entire construction site property and the total number of acres of the site where construction activities will occur, including off-site material storage areas, overburden and stockpiles of dirt, and borrow areas;

(d) the soil type and the quality of any existing discharge from the site;

(e) a map showing the general location of the site (e.g. a portion of a city or county map);

(f) a detailed site map indicating the following:

i. drainage patterns and approximate slopes anticipated after major grading activities;

ii. areas where soil disturbance will occur;

iii. areas which will not be disturbed;

iv. locations of all major structural controls either planned or in place;

v. locations where stabilization practices are expected to be used;

vi. locations of off-site material, waste, borrow or equipment storage areas;

vii. surface waters (including wetlands) either adjacent or in close proximity;

and

viii. locations where stormwater discharges from the site directly to a surface water body.

(g) the location and description of asphalt plants and concrete plants (if any) providing support to the construction site and that are also authorized under the General Permit TXR 150000, as it may be amended, and

(h) the name of receiving waters at or near the site that will be disturbed or that will receive discharges from disturbed areas of the project.

(2) The following records must be either attached to or referenced in the SWP3 and made readily available upon request to the City of Harlingen, TCEQ or the EPA:

a) the dates when major grading activities occur;

b) the dates when construction activities temporarily or permanently cease on a
portion of the site; and,
c) the dates when stabilization measures are initiated.

(3) The SWP3s must identify and describe the best management practices (BMPs) that will be used, the general timing or sequence for implementation of such BMPs, and the party responsible for implementation. At a minimum, the description must include erosion and sediment controls designed to retain sediment on-site to the maximum extent practicable with due consideration for local topography and rainfall.

a) Control measures must be selected, installed, and maintained according to the manufacturer's or designer's specifications.
b) Sediment must be removed from sediment traps and sedimentation ponds no later than the time that design capacity has been reduced by 50%.
c) If sediment escapes the site, accumulations must be removed at a frequency to minimize further negative effects and, whenever feasible, prior to the next rain event.
d) Controls must be specified that limit offsite transport of litter, construction debris and construction materials.

(4) The SWP3 must describe interim and permanent stabilization practices and a schedule of when the stabilization practices will be implemented. Site plans should ensure that existing vegetation is preserved where it is possible.

a) Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, and protection of existing trees and vegetation.
b) Stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and except as provided in (i) and (ii) below, must be initiated no more than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased.

i. Where the initiation of stabilization measures is precluded by seasonably arid conditions, drought, excessive rainfall, or other weather or climatic conditions, stabilization measures must be initiated as soon as practicable.

ii. Where construction activity on a portion of the site is temporarily ceased but earth disturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures do not have to be initiated on that portion of site.

(5) The SWP3 must include a description of any structural controls that will be used to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen the off-site transport of eroded soils.

a) Sediment basins are required, where feasible, for common drainage locations that serve an area with ten or more acres that are disturbed at any one time. Sediment basins
may be either temporary or permanent, but must be designed to store either the calculated volume of runoff from a 2-year, 24-hour storm, or designed to provide 3,600 cubic feet of storage per acre drained. When calculating the volume of runoff from a 2-year, 24-hour storm event, it is not required to include the flows from offsite areas and flow from onsite areas that are either undisturbed or have already undergone formal stabilization, if these flows are diverted around both the disturbed areas of the site and the sediment basin. In determining whether installing a sediment basin is feasible, the permittee may consider factors such as site soils, slope, available area on-site, and public safety. Where sediment basins are not feasible, equivalent control measures, which may include a series of smaller sediment basins, must be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries and for those side slope boundaries as dictated by individual site conditions of the construction area.

(b) Sediment traps and sediment basins may be used to control solids in stormwater runoff for drainage locations serving less than ten (10) acres. At a minimum, silt fences, hay bales, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction. Alternatively, a sediment basin providing storage for a calculated volume of runoff from these areas for a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained may be provided.

(6) Other Controls

(a) The SWP3 must describe how off-site vehicle tracking of sediment and the generation of dust will be minimized.
(b) The SWP3 must include a description of construction and waste materials expected to be stored on-site and a description of controls to reduce pollutants from these materials.
(c) The SWP3 must include a description of pollutant sources from areas other than construction (including stormwater discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.
(d) The SWP3 must commit to ongoing maintenance to keep all erosion and sediment control and other protective measures identified in the SWP3 in effective operating condition.

(7) Site Inspections

(a) The construction site operator shall provide for regular inspections by persons familiar with the SWP3 of the disturbed areas that have not been formally stabilized, areas used for storage of materials that are exposed to precipitation, all structural control measures, and locations where vehicles enter or exit the site for evidence of effectiveness and necessary maintenance. Inspections must occur at least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm event of 0.5 inches or greater.
(b) As an alternative, the SWP3 may require that inspections will occur at least once every seven calendar days; in which case additional inspections are not required following each qualifying storm event. If this alternative schedule is developed, the inspection must occur on a specifically defined day, regardless of whether or not there has been a rainfall event since the previous inspection.

(c) The construction site operator must inspect all accessible discharge locations to determine if erosion control measures are effective in preventing visually noticeable changes to receiving waters, including persistent cloudy appearance in water color and noticeable accumulation of sediments. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. The frequency for these inspections must be established in the SWP3 with consideration for local rainfall and soil, but must occur at least once during the construction activity if a discharge occurs.

(d) The SWP3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the SWP3 must be completed within seven calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in an amendment to the SWP3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, these changes must be implemented as soon as practicable.

(e) A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, and major observations relating to the implementation of the SWP3 must be made and retained as part of the SWP3. Major observations should include:

i. locations of discharges of sediment or other pollutants from the site;
ii. locations of BMPs that need to be maintained;
iii. locations of BMPs that failed to operate as designed or proved inadequate for a particular location;
iv. locations where additional BMPs are needed; and
v. identification and location of the BMPs that are working effectively.

(f) Actions taken as a result of inspections must be described within, and retained as an amendment to the SWP3. Reports must identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the facility or site is in compliance with the SWP3 and this permit.

(8) The SWP3 must identify and ensure the implementation of pollution prevention measures for all eligible non-stormwater components of the discharge. This ordinance prohibits, and all SWP3s will be presumed to prohibit:
(a) The discharge from a construction site of any water or other liquid having a pH value lower than 6.0 or higher than 10.5;
(b) The discharge of any type of industrial waste from construction sites;
(c) The deposit of any garbage, rubbish, or yard waste other than at a facility licensed to receive such debris;
(d) The discharge of paint or paint brush cleaning water or solvents, thinners or turpentine or any combination thereof;
(e) Unused construction materials or used construction materials or debris remaining on the site after construction is completed. All on-site debris shall be properly disposed of in the landfill within thirty (30) days from the occupancy of the structures; and
(f) The washing of any type of trucks, including, but not limited to, ready mix trucks or material supply trucks on or around the construction site.

F - Effective Date of Coverage

Operators of construction activities eligible for coverage under TXR150000, as it may be amended, are authorized to discharge storm water associated with construction activity upon issuance by the City of the building permit or site development permit.

G - Retention of Records

The construction site operator must retain a copy of the SWP3 and all reports and actions required by this ordinance and state and federal law, including NPDES, TPDES and General Permit No.150000, for a minimum period of three years from the date that final stabilization has been achieved on all portions of the site.

Sec. 16.48 – Authority to Enter and Inspect

The City of Harlingen has the authority to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)f.

- The City of Harlingen may enter and inspect facilities, equipment, practices and operations subject to regulation under this Ordinance as often as necessary to determine compliance with this Ordinance. If a discharger’s security measures require proper identification and clearance before entry into the premises, the discharger shall make necessary arrangements to allow access to representatives of the authorized enforcement agency.

- Facility operators shall allow the City of Harlingen access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

- The City of Harlingen shall have the right to monitor and/or sample the facility’s stormwater discharge.
• The City of Harlingen may require the discharger to install and maintain necessary sampling and monitoring equipment.

• The operator must remove temporary or permanent obstruction(s) at the written or oral request of the City of Harlingen to allow safe and easy access to the facility for inspection and/or sampling purposes. The costs of clearing access will be borne by the operator and the obstructions may not be replaced.

• Unreasonable delays in allowing the City of Harlingen access to a permitted facility is a violation of a TPDES stormwater discharge permit and of this Ordinance. A person commits an offense if the authorized enforcement agency is denied reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

Sec. 16.49 Best Management Practices (BMPs) to Reduce Stormwater Pollutants

The City of Harlingen has the authority to respond to non-compliance with BMPs required by the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)g. The City of Harlingen shall adopt measures to identify BMPs for any activity, operation, or facility which may facilitate pollution of stormwater, the storm drain system, or surface water in the state. The owner or operator of a commercial or industrial establishment shall implement, at their own expense, appropriate pollution control measures through the use of structural and non-structural BMPs to prevent and reduce discharge of pollutants into the municipal storm drain system or watercourses. The BMPs must be identified in the Stormwater Pollution Prevention Plan (SWP3) to satisfy requirements of the TPDES permit.

Sec. 16.50 Enforcement and Penalties

The City of Harlingen has the authority to assess penalties, including monetary, civil, or criminal penalties in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)h.

If the City of Harlingen finds a person in violation with this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require:

• Monitoring, analysis, and reporting
• Elimination of illicit connections or discharges
• Termination of existing discharges or practices and/or operations in violation of this Ordinance
• Abatement and/or remediation of stormwater pollution or contamination hazards
• Payment of fines to cover administrative and remediation costs
• Implementation of pollution control measures or treatment BMPs
If the property must be remediated, the notice must establish a deadline to restore the site. The notice must further advise that, if the violator fails to remediate the site by the deadline, a designated governmental agency or contractor will restore the site at the expense of the violator.

A - Penalty for Violation

(1) Any person, firm, corporation or business entity that violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, fined as provided in [insert section number] of the City of Harlingen Code of Ordinances. Each day that the violation continues shall constitute a separate offense. A culpable mental state is not required to prove an offense under this chapter.

(2) The penal provisions imposed by this chapter shall not preclude the City from filing a suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law. The city may, at its discretion, report alleged noncompliance to the EPA, TCEQ, US Fish and Wildlife Service, Texas Parks and Wildlife, the US Army Corps of Engineers, or any other state or federal agency.

B - Violations

(1) It is a violation of this chapter to engage in construction activity without complying with this Chapter.

(2) It is a violation of this Chapter to discharge any substance, other than stormwater or the discharges listed in §15.01.004B, to the City’s MS4 in violation of any provision in this Chapter.

(3) The operator of a facility or site with a TPDES permit to discharge stormwater associated with industrial or construction activity commits an offense if the person denies city staff reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter. Unreasonable delays in allowing the city access to a permitted facility or site is a violation of this ordinance.

(4) A person commits an offense if the person operates a facility or site that is discharging stormwater associated with industrial or construction activity without having submitted a copy of the notice of intent to do so to the City.

(5) A facility shall be operated in strict compliance with the requirements of its TPDES permit to discharge stormwater associated with industrial or construction activity. A person commits an offense if the person operates a facility or construction activity in violation of a requirement of the facility’s TPDES permit to discharge stormwater.

(6) The City may require any operator of a facility to modify the facility’s or the site’s SWP3 if in the best professional judgment of the City staff, the SWP3 does not comply with the requirements of the facility’s or the site’s TPDES permit to discharge.
C - Notices of Violations and Stop Work Orders

(1) Notice of the deficiencies in a facility's or a site's SWP3 will be made in writing, and the City will give the facility or construction site operator a reasonable amount of time, not to exceed thirty (30) days, to make the necessary changes in the SWP3.

(2) Noncompliance flag and stop work orders. If the city staff determines that activities are being carried out in violation of this chapter, a notification of noncompliance shall be issued. In addition to the notification, if the violation continues beyond five days, a "noncompliance flag" will be posted at the site. Finally, if the violation continues after three days after the "noncompliance flag" is posted, the city may stop all work until corrective measures have been completed. The site shall be posted with a "stop work order."

   No other permits may be issued or inspections conducted by the city until corrections have been made to the satisfaction of the city. To move or interfere with a "noncompliance flag" or a stop work order shall constitute a violation of this article.

(3) Any person alleged to be in violation of the provisions of this chapter shall be required to correct the problem upon written notification from the city. Such written notification may require that certain conditions be adhered to in the correction of the problem. These may include, but are not limited to the following:

   a. Use of specific pollution prevention measures and techniques;
   b. Use of pretreatment procedures;
   c. Modification of existing SWP3;
   d. Completion of work within a specified time period; and
   e. Submission of SWP3.

(4) Appeals. Any person denied permission to discharge to MS4 shall have the right to appeal such to the board of adjustment or other board established by the city within forty-five (45) days of the date of such denial.

D – Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination to the City of Harlingen. The Notice of Appeal must be received within 15 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or designee shall take place within 60 days from the date of receipt of the Notice of Appeal. The decision of the City of Harlingen or their designee shall be final.
E – Enforcement Measures after Appeal

If the violation remains uncorrected after 10 pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, then representatives of the authorized enforcement agency shall enter the regulated property to take the necessary actions to abate the violation and/or restore the property. It shall be unlawful for any person to refuse the City of Harlingen to enter upon the premises for the purposes set forth above.

F – Cost of Abatement of the Violation

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the local jurisdiction or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Harlingen by reason of such violation.

G – Injunctive Relief

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this Ordinance, the City of Harlingen may petition for a preliminary or permanent injunction restraining the person entity from activities prompting further violations or compel the person to perform abatement or remediation of the violation(s).

H – Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of Harlingen may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, drainage cleanup, etc.

I – Criminal Prosecution

Any person that violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of not more than ($500.00) dollars per violation.

Sec. 16.51 Maintenance Agreements

The City of Harlingen has the authority to enter into interagency or interlocal agreements or other maintenance agreements, as necessary in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)i. This agreement will include maintenance easements to access and inspect stormwater control practices, and perform routine maintenance to ensure
proper stormwater control. A legally binding covenant will identify the responsible parties to maintain stormwater control practices.

Sec. 16.52 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any person will ensure prevention of contamination, pollution, and unauthorized discharge of pollutants.

Sec. 16.53 Severability

If any provision of this article or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this article and the application of such provision to other persons and circumstances shall nevertheless be valid, and the city commission hereby declares that this chapter would have been enacted without such invalid provision.

Sec. 16.54 Separability

The provisions and sections of this Ordinance shall be deemed to be independent, and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

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

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

FINALLY ENACTED this _____ day of __________, 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
CONSTRUCTION SITE NOTICE
TCEQ Stormwater Program
TPDES GENERAL PERMIT TXR040000

This information is posted in compliance with TCEQ TPDES General Permit #TXR040000 for discharges of stormwater runoff from construction sites into small municipal separate storm sewer system. Additional information regarding the TCEQ storm water permit program may be found at: www.tceq.state.tx.us

<table>
<thead>
<tr>
<th>Permit Number:</th>
<th>TXR04</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Name and Phone Number:</td>
<td></td>
</tr>
<tr>
<td>Project Description:</td>
<td>(Including start date and end date or date that disturbed soils will be finally stabilized)</td>
</tr>
<tr>
<td>Location of Stormwater Pollution Prevention Plan (SWP3):</td>
<td></td>
</tr>
</tbody>
</table>

I, (Printed Name), certify under penalty of law that I have read and understand the eligibility requirements for claiming authorization under Part II of TPDES General Permit TXR040000. A stormwater pollution prevention plan has been developed and will be implemented according to permit requirements. I am aware there are significant penalties for providing false information or for conducting unauthorized discharges, including the possibility of fine and imprisonment for knowing violations.

| Signature | Date |
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Consider and take action to authorize the Mayor, on behalf of the City of Harlingen, to accept and expend grant funding in the amount of $3,471.95 made available through the Bureau of Justice Assistance (BJA) under the (FY) 2019 Bulletproof Vest Partnership (BVP) Program.

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

Brief Summary:
The Harlingen Police Department will be utilizing the Bureau of Justice Assistance (BJA) funding for the purchase of Bulletproof Vests for Police Officers.

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: This is a 50/50 matching grant. 50% of any vest purchase will derive from reimbursement requests to the BJA up to $3,471.95, with an equal City match (50% - budgeted). A budget amendment will be requested to reflect the awarded amount.

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

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

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

Comments:

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

form revised 01/26/09
**STATUS**

This "Status" page shows any pending actions that must be completed prior to program deadlines. It also provides you with payment(s) status for tracking your requests for approved funds.

- Red '*'s indicate your attention is needed in order to complete a task for action.

### CURRENT ACTIVITY STATUS

**Application**

- Approved by BVP

### CURRENT PAYMENT REQUESTS

<table>
<thead>
<tr>
<th>ATTN</th>
<th>Created Date</th>
<th>Total Amount Requested $</th>
<th>Current Status $</th>
<th>Status Date</th>
<th>Funding Type</th>
<th>Action</th>
</tr>
</thead>
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<tr>
<td></td>
<td>08/28/2019</td>
<td>$4,499.77</td>
<td>Sent for BVP Approval</td>
<td>08/28/2019</td>
<td>Regular Fund</td>
<td>View Details</td>
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### AVAILABLE AWARDS

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<thead>
<tr>
<th>ATTN</th>
<th>Fiscal Year</th>
<th>Award Amount $</th>
<th>Total Paid $</th>
<th>Total Requests $</th>
<th>Eligible Balance $</th>
<th>Expiration Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>!</td>
<td>2017</td>
<td>$8,892.81</td>
<td>$1,356.17</td>
<td>$4,499.77</td>
<td>$3,036.87</td>
<td>09/30/2019</td>
</tr>
<tr>
<td>!</td>
<td>2018</td>
<td>$4,000.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$4,000.00</td>
<td>08/31/2020</td>
</tr>
<tr>
<td></td>
<td>2019</td>
<td>$3,471.95</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$3,471.95</td>
<td>08/31/2021</td>
</tr>
</tbody>
</table>
**AGENDA ITEM**
**EXECUTIVE SUMMARY**

Meeting Date: **October 22, 2019**

**Agenda Item:**
Consider and take action to authorize the Mayor, on behalf of the City of Harlingen, to accept and expend grant funding in the amount of $31,122.00 made available through the Office of the Governor Homeland Security Grant Program (HSPG) under the SHSP LETPA Solicitation – FY19.

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

**Brief Summary:**
The Harlingen Police Department will be utilizing the Office of the Governor Homeland Security Grant Program (HSPG) under the SHSP LETPA Solicitation – FY19 Program funds to replace and upgrade the Police Department’s Interoperable Communications (six portable handheld radios) for members of the HPD SWAT Team. No Matching Funds required.

**Funding (if applicable):**
Are funds specifically designated in the current budget for the full amount □ Yes X No*  
*If no, specify source of funding and amount requested: $31,122.00 will derive from reimbursement requests to the Office of the Governor Homeland Security Grants Division made available through the 2019 State Homeland Security Program. A budget amendment will be requested to reflect the increase in expenditures and revenues.

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

**Staff Recommendation:**
Staff recommends that we accept the funding in the amount of $31,122.00 for the purchase of portable handheld radios for members of the HPD SWAT Team. No funding match required.

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

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

*form revised 01/26/09*
Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the ‘Narrative’ and ‘Budget/Details’ tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

<p>| Grant Number: | 3832801 |
| Date Awarded: | 10/10/2019 |
| Grant Period: | 09/01/2019 - 08/31/2020 |
| Liquidation Date: | 11/29/2020 |
| Program Fund: | HS-Homeland Security Grant Program (HSGP) |
| Grantee Name: | Harlingen, City of |
| Project Title: | Upgrade Portable Radios for HPD SWAT |
| Grant Manager: | Dorothy Caston |
| DUNS Number: | 945609816 |
| CFDA: | 97.067 - Homeland Security Grant Program (HSGP) |
| Federal Award Date: | 8/28/2019 |
| Federal/State Award ID Number: | EMW-2019-SS-00034-S01 |
| Total Federal Award/State Funds Appropriated: | $98,436,639.00 |
| Pass Thru Entity Name: | Texas Office of the Governor – Homeland Security Grants Division (HSGD) |
| Award Amount: | $31,122.00 |
| Grantee Cash Match: | $0.00 |
| Grantee In Kind Match: | $0.00 |
| Total Project Cost: | $31,122.00 |</p>
<table>
<thead>
<tr>
<th>Is the Award R&amp;D:</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal/State Award Description:</td>
<td>The purpose of the HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 31 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather require the combined effort of the whole community.</td>
</tr>
</tbody>
</table>
Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the ‘Narrative’ and ‘Budget/Details’ tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

<table>
<thead>
<tr>
<th>Grant Number: 2555206</th>
<th>Award Amount: $83,537.20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Awarded: 10/10/2019</td>
<td>Grantee Cash Match: $20,884.30</td>
</tr>
<tr>
<td>Grant Period: 10/01/2019 - 09/30/2021</td>
<td>Grantee In Kind Match: $0.00</td>
</tr>
<tr>
<td>Liquidation Date: 12/29/2021</td>
<td>Total Project Cost: $104,421.50</td>
</tr>
<tr>
<td>Program Fund: VA-Victims of Crime Act Formula Grant Program</td>
<td></td>
</tr>
<tr>
<td>Grantee Name: Harlingen, City of</td>
<td></td>
</tr>
<tr>
<td>Project Title: Crime Victim Liaison</td>
<td></td>
</tr>
<tr>
<td>Grant Manager: Alyssa Smith</td>
<td></td>
</tr>
<tr>
<td>DUNS Number: 945609816</td>
<td></td>
</tr>
</tbody>
</table>

CFDA: 16.575 - Victims of Crime Act Formula Grant Program

Federal Awarding Agency: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime

Federal Award Date: 9/13/2019

Federal/State Award ID Number: 2019-V2-GX-0011

Total Federal Award/State Funds Appropriated: $193,635,780.00

Pass Thru Entity Name: Texas Office of the Governor – Criminal Justice Division (CJD)

Is the Award R&D: No

Federal/State Award Description: This grant award provides funds from the Crime Victims Fund to enhance crime victim services in the State. Victims of Crime Act (VSOCA) assistance funds are typically competitively awarded by the State to local community-based organizations that provide direct services to crime victims.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

Agenda Item:
Consider and take action to authorize the Mayor, on behalf of the City of Harlingen, to accept grant funding in the amount of $83,537.20 made available through the Office of the Governor, VA – Victims of Crime Act Formula Grant Program (VA19 PY20 General Direct Services) for the HPD Crime Victim Liaison program.

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

Brief Summary:
The Harlingen Police Department will utilize said funding in the amount of $83,537.20 made available through the Office of the Governor, VA – Victims of Crime Act Formula Grant Program (VA19 PY20 General Direct Services) for the HPD Crime Victim Liaison program. The total project cost includes salary, office supplies, utilities and a private office space. The total cost for the two year project is estimated at $104,421.50. The grant requires a 20% cash match in the estimated amount of $20,884.30 (includes percentage of salary, office space, supplies, & utilities). Total grant funding awarded is $83,537.20.

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: $ 83,537.20 will derive from reimbursement requests to the Office of the Governor, Public Safety Office - Criminal Justice Division (General Victim Assistance Program). A budget amendment will be requested to reflect the increase in expenditures and revenues.

Finance Director’s approval:  

Staff Recommendation:
Staff recommends that we accept said funding in the amount of $83,537.20 for the Crime Victim Liaison program.

City Manager’s approval:  

City Attorney’s approval:  

form revised 01/26/09
Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the ‘Narrative’ and ‘Budget/Details’ tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code; and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made; and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

- **Grant Number:** 2555206
- **Date Awarded:** 10/10/2019
- **Grant Period:** 10/01/2019 - 09/30/2021
- **Liquidation Date:** 12/29/2021
- **Program Fund:** VA-Victims of Crime Act Formula Grant Program
- **Grantee Name:** Harlingen, City of
- **Project Title:** Crime Victim Liaison
- **Grant Manager:** Alyssa Smith
- **DUNS Number:** 945609816
- **CFDA:** 16.575 - Victims of Crime Act Formula Grant Program
- **Federal Awarding Agency:** U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime
- **Federal Award Date:** 9/13/2019
- **Federal/State Award ID Number:** 2019-V2-GX-0011
- **Total Federal Award/State Funds Appropriated:** $193,635,780.00
- **Pass Thru Entity Name:** Texas Office of the Governor – Criminal Justice Division (CID)
- **Is the Award R&D:** No
- **Federal/State Award Description:** This grant award provides funds from the Crime Victims Fund to enhance crime victim services in the State. Victims of Crime Act (VOCA) assistance funds are typically competitively awarded by the State to local community-based organizations that provide direct services to crime victims.
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: **October 22, 2019**

**Agenda Item:**
Consider and take action on the request from Robert Villanueva Garcia, Deacon Evangelist of the Iglesia La Luz del Mundo (The Light of the World) for street closures on Friday, Saturday & Sunday, November 1 – 3, 2019 for their church festival.

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

**Brief Summary:**
Robert Villanueva Garcia, Deacon Evangelist of the Iglesia La Luz del Mundo (The Light of the World) is requesting 4th St. closed between Jackson St. and Van Buren St. November 1 – 3, 2019 for their church festival. The closure will begin on Friday Nov. 1st starting at 10:00 am, all day Saturday Nov. 2nd & Sunday Nov. 3rd until 3:00 pm.

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

**Staff Recommendation:**
HPD is not in agreement with this request due to traffic flow issues and would recommend that the City Commission deny this request.

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

**Comments:**

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

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

FROM: SGT. M. Brooks #3466

DATE: October 11, 2019

RE: Light of the World Church Street Closure Request

REQUESTOR: Robert Villanueva
EVENT NAME: Church Festival
DATE: November 1st – 3rd, 2019
LOCATION: 100 block S. 4th ST. Harlingen, TX. 78550

DESCRIPTION: The Light of the World Church will be having Church is requesting a street closure for a Festival. The date is from November 1st through the 3rd, 2019. The time for the closure is from 7:00am through 8:00pm. The event is open to the public and is expected to draw a large crowd. The event will be taking place on the 100 block of S. 4th ST. in Harlingen. The church will be setting up booths and tables for food and game, the street closure is to ensure the safety of all who attend.

After discussing this request with my administration we realized that this event fell on same weekend as Market Days.

I spoke to Jaime Torres and Mary Villanueva of the Light of the World Church in reference to the possible denial of this request for due to the fact that 4th street and Jackson AVE intersection is used for primarily for Market Days.

Mr. Torres advised me that was whole point to have the event during Market days as there would be several people attending.

I encouraged Mr. Torres to possibly use 5th street as it would still access to patrons of market days, but be out of the way. Furthermore, the church itself has a large parking lot that could
also be used for their event and there are not any businesses on 5th street to contend with.
Mr. Torres and Ms. Villanueva declined that option. The only exception they were willing to
make was to request a partial closure of Jackson Street, meaning only closing one lane between
4th and 5th street.
I advised them that I would submit their request however I could not guarantee the approval.
A map illustrating the intersections requesting to be closed is also with this packet.
There are no businesses or residential housing affected by the closing of the 100 block of S. 4th
Street.

Robert Villanueva is the Point of Contact for this event. He can be reached at (956)407-3667 or
(956)406-5659. Church personnel understand that it is their responsibility of setting up and
tearing down barricades.

Due to Confusing Traffic
Flaw and unnecessary
Re-routing of Traffic for an
Extended Period I DO NOT
Recommend Approval.

Chief Mil Ketts

Chief Ketts will not accept alternate
options. I do not recommend approval.

Recommend Denial
Cannot Close Section for 3
Days

CHIEF
September 5, 2019

Micahel Kester
Chief of Police
Harlingen Police Department
1018 Fair Park Boulevard
Harlingen, Texas 78550

Dear Chief Kester:

I would like to request a street closure for November 1-3, 2019 from 10 a.m. to 8 p.m. on Friday, all day Saturday, and from 8 a.m. to 3 p.m. on Sunday. The street that we are requesting to close is 4th from Van Buren to Jackson Street. The event is a church festival, somewhat like a Kermes, where we will set up booths or tables and have food for the public to enjoy, no alcoholic beverages will be sold. Our event will be in accordance with all health and food regulations.

Attached is the map of the streets that we are requesting to close and written acceptance from our neighbors that agree with the street closure.

I hope that you can comply with our request as this event will be a great benefit to the Harlingen downtown area. If you have questions feel free to contact us at (956) 407-3667, (773) 406-5659 or email us at lldm405@gmail.com.

Respectfully,

Robert Villanueva García
Deacon Evangelist
Iglesia La Luz del Mundo
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 16, 2019

Agenda Item:
Consider and take action to approve the Fire Protection Service Contract with the City of Combes, as authorized by signature of the Mayor of the City of Harlingen.

Prepared By (Print Name): Eduardo Alvarez
Title: Assistant Fire Chief
Signature:

Brief Summary:
The rate for Fire Protection Services for the city of Combes is .10 cents per $100.00 valuation based on that City’s 2019 Certified Net Taxable Value. After review by their City Council, the City of Combes has signed the Fire Protection Service Contract in agreement with the stated provisions. Approval of this contract ensures that fire protection services will continue to this community for the agreed upon compensation of $95,726.34 for FY 19/20 payable in quarterly installments of $23,931.59 on the following dates: Dec. 31st 2019, Mar. 31st 2020, Jun 30th 2020 and Sept. 30th 2020.

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:
Recommend that the City of Harlingen approve the FY 2019/2020 Fire Protection Service Contract as agreed upon with the City of Combes.

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

Comments:

City Attorney’s approval: [ ] Yes [ ] No [ ] N/A
THE STATE OF TEXAS
COUNTY OF CAMERON

FIRE PROTECTION SERVICE CONTRACT

This is a contract and agreement made and entered into on the date hereinafter set forth preceding the signatures of the parties herein and the parties herein mutually agree as follows:

I. CONTRACT

The parties to this contract are the City of Harlingen, Texas, a Home-Rule Municipal Corporation located in Cameron County, Texas, and the City of Combes, a municipal corporation located in Cameron County, Texas. Both of said entities are acting by and through their duly authorized elected representatives in authorizing the execution of this contract under the provisions of the Interlocal Cooperation Act (Section 791.001 et. seq., Government Code) as amended or recodified. The City of Harlingen, Texas is hereinafter referred to as HARLINGEN, and the City of Combes, Texas is hereinafter referred to as Combes.

II. PROVISIONS OF CONTRACT

During the terms of this agreement, The City of Harlingen through its Fire Department agrees to furnish fire-fighting services defined as the use of personnel and equipment to extinguish and suppress fires or to handle "hazardous material incidents" or "confined space rescue", but not the prevention of fires. The Harlingen Fire Department agrees to respond to all calls referred to it by its agents or representatives of Combes or any resident or tenant of Combes who may be in need of fire fighting services which Harlingen undertakes to provide by this agreement.

III. COMPENSATION

The rate for fire fighting services is determined from the total appraised taxable value of all property within the City of Combes at the rate of .10 cents per $100.00 valuation. Combes agrees to pay Harlingen the sum of $95,726.34 for fiscal year 19/20 based on the current appraised taxable value, in quarterly installments of $23,931.59 on the following dates: December 31st, March 31st, June 30th, and September 30th for fire fighting services. Combes agrees to indemnify and hold harmless the City of Harlingen and all of its employees or officers pursuant to the provisions of Section 791.001, et. seq., Gov't Code, throughout the term of this contract. Any failure of Combes to pay such sums billed by HARLINGEN or any additional breach of the terms hereof shall be considered a breach of the contract and this contract may be terminated immediately at HARLINGEN'S option, and HARLINGEN may sue for any unpaid sums due under the contract in a Court of appropriate jurisdiction in Cameron County, Texas.

Harlingen shall provide a written report summarizing the fire fighting services rendered to Combes during that payment period, with said report listing all calls by date, location, and nature of call. This report shall be due (15) days after the pertinent payment period (set forth in the paragraph above) ends.

IV. OBLIGATION TO RESPOND

Combes acknowledges that HARLINGEN is not obligated to respond to fire calls in the vicinity of but outside the city limits of Combes.

V. TERMS OF AGREEMENT

The terms of the agreement shall be one year, beginning October 1, 2019, and ending September 30, 2020.
VI.
TERMINATION OF RENEWAL

Either party may terminate this contract sixty days after the other party is sent written notice from the party desiring termination by United States Mail, return receipt requested. If Combes does not intend to renew this agreement after the final year covered by this contract, Combes shall provide Harlingen written notice of its intent to terminate by United States Mail, return receipt requested, not later than the first of July 2020.

In the event Combes fails to notify Harlingen of its intention not to renew this contract, Harlingen may assume that Combes will renew this contract upon the same terms and conditions as presently agreed upon in this contract.

Should Combes intend to renegotiate this contract, Harlingen shall be notified in writing by United States Mail, return receipt requested, not later than the first of July prior to the fiscal year, which begins on October 1, 2020. If such negotiations have not been completed on or before the beginning of that fiscal year, both Harlingen and Combes expressly agree to act in accordance with the terms and conditions of this contract for a period of thirty days. If during such time both parties fail to negotiate a new contract, the negotiation period shall terminate at the end of the thirtieth (30th) day of said period. However, the contract obligations of both parties shall be extended an additional thirty-day period beyond the end of the negotiation period to allow Combes time to secure alternate fire fighting services. At the end of this second period, this contract shall terminate. During these extensions beyond the Contract period, Combes shall pay Harlingen at the rate set out in this contract.

VII.
ENTIRE AGREEMENT

This contract shall comprise the entire agreement between the parties hereto and any amendment shall be enforceable only after being reduced to writing, mutually executed by the parties hereto and attached hereto.

VIII.
"ACT OF GOD EXCUSES PERFORMANCE"

In the event that either party shall be prevented from completing performance of their respective obligations hereunder by an act of god or any other occurrence whatsoever which is beyond the control of the parties hereto, then they shall be excused from any further performance of their obligations and undertakings hereunder for the period of such occurrence.

Executed in duplicate by the Mayor of Combes and the Mayor of the City of Harlingen, duly authorized to represent and bind said cities to the terms and conditions of the contract, as set forth below, on the ____ day of 2019.

CITY OF HARLINGEN, TEXAS

BY

Chris Boswell, Mayor

ATTEST:

CITY SECRETARY

TOWN OF COMBES, TEXAS

BY

Marco Sanchez, Mayor

ATTEST:

CITY SECRETARY

10/4/2019
**AGENDA ITEM**
**EXECUTIVE SUMMARY**

**Meeting Date:** October 22, 2019

**Agenda Item:**
Consider and take action to adopt an ordinance to permanently close L and L 1/2 Street between Fair Park Boulevard and Adams Avenue for the construction of the Destination Park Project.

**Prepared By (Print Name):** Javier Mendez  
**Title:** Parks and Recreation Director  
**Signature:**

**Brief Summary:**
Staff is requesting to permanently close the section of L and L 1/2 Street between Fair Park Boulevard and Adams Avenue for the construction of the Destination Park Project. The park project is proposing to remove the existing roadway and replace it with a walkway, landscaping, small pavilions, and a water feature. The demolition of the roadway will take place prior to the construction of the park project. Attached is a layout of the proposed street closure.

**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:**

**Staff Recommendation:**
Staff is recommending that the section of L and L 1/2 Street between Fair Park Boulevard and Adams Avenue be permanently closed for the construction of the Destination Park Project.

**City Manager’s approval:**

**Comments:**

**City Attorney’s approval:**

*Form revised 01/26/09*
ORDINANCE NO. 19-____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS AUTHORIZING THE CLOSURE OF L STREET AND L ½ STREET BETWEEN FAIR PARK BOULEVARD AND ADAMS AVENUE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the City Commission believes and so finds that it would serve the best interest of the City of Harlingen to close a portion of the right-of-way, known as L Street and L ½ street, (retaining all utility easements) and release right to use same as a public street.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HARLINGEN:

SECTION I: Under and by virtue of the powers vested in it by the Constitution and laws of the State of Texas, the City of Harlingen, Texas, a home rule city, hereby vacates and closes certain right-of-way for the portion of L Street and L ½ Street more fully described as follows:

THE SECTION OF L STREET AND L ½ STREET BETWEEN FAIR PARK BOULEVARD AND ADAMS AVENUE

SECTION II: The City of Harlingen hereby specifically retains utility easements and right-of-way along, across, over and through a part of the above described property and the right to the construction, reconstruction, maintenance and operation of all utilities and right-of-way.

SECTION III: This Ordinance shall be in full force and effect from and after its final passage, approval and publication as by the Charter of the City of Harlingen and the laws of the State of Texas provided.

SECTION VI: That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true and correct copy of the caption of this Ordinance to be published in a newspaper having general circulation in the City of Harlingen, Cameron County, Texas.

FINALLY ENACTED THIS _____ day of ____________, 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

ATTEST:

Chris Boswell, Mayor

Amanda C. Elizondo, City Secretary
AGENDA ITEM
EXECUTIVE SUMMARY

Meeting Date: October 22, 2019

**Agenda Item:**

Consideration and possible action to approve the renewal of the facility usage agreement with Arroyo Youth Soccer club Inc. for the use of the soccer fields 5, 6, 8, 9 and 10 at the Harlingen Soccer Complex and the Concession Stand and authorize the City Manager to execute the agreement. Attachment (Parks & Recreation)

<table>
<thead>
<tr>
<th>Prepared By:</th>
<th>Javier Mendez</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td>Director of Parks and Recreation</td>
</tr>
<tr>
<td>Signature:</td>
<td>[Signature]</td>
</tr>
</tbody>
</table>

**Summary:**

The League will be allowed to use fields 5, 6, 8, 9 and 10 on a regular basis during their regular season. They will also have access to field 7 on Monday’s and Saturday’s and to fields 3 and 4 Monday through Saturday.

All required documents from the League pursuant to the contract are current and on file with the City. This includes those items listed in Paragraph “X.”

The Parks and Recreation Advisory Board recommended approval.

**Staff Recommendation:**

Staff and the Parks and Recreation Advisory Board recommend approval of the changes to the contract for the 2019-20 season.

City Manager’s approval:

[ ] Yes  [ ] No  [ ] N/A

Comments:

City Attorney’s approval:

[ ] Yes  [ ] No  [ ] N/A

form revised 04/29/09
STATE OF TEXAS ****
COUNTY OF CAMERON ****
CITY OF HARLINGEN ****

FACILITY USAGE AGREEMENT FOR
Arroyo Youth Soccer Club Inc.

I. WITNESS this Facility Usage Agreement hereby entered into this ___ day of ___, 2019, 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 ARROYO YOUTH SOCCER CLUB INC., hereinafter designated as the LEAGUE.

The CITY hereby grants usage to the LEAGUE for play thereon Soccer Fields 5, 6, 8, 9, and 10 at Harlingen Soccer Complex, all located in Harlingen, Texas. In addition, the LEAGUE will also have access to fields 3 and 4 Monday – Saturday and field 7 on Mondays.

II. The term of the Agreement is as follows: Start November 1, 2019, ending October 31, 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, the LEAGUE 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 all facilities 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 LEAGUE activities as filed with and subject to approval by the Parks and Recreation Director.

B. The basic use of said facility by the LEAGUE shall be for the purpose of promoting, training and playing soccer and the operation of the concessions incidental to such activities.

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

D. The LEAGUE will not use the facility for any unlawful purposes. The LEAGUE 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.

F. The LEAGUE shall discourage unsafe practices. The 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 the 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 LEAGUE 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 the LEAGUE shall 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. The LEAGUE shall bear all costs incidental to operation of said the LEAGUE 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. The LEAGUE shall and mark fields. Exceptions to the
provisions in this paragraph "1." shall be for the LEAGUE 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. The LEAGUE shall maintain, at the LEAGUE expense, any scoreboard, if present, its attendant cables, controls, etc. and the LEAGUE shall own and maintain, at its expense, any public address system used.

4. The LEAGUE shall provide at own expense (when applicable), umpires, officials, scoreboard operators.

5. The LEAGUE is responsible for picking-up any and all trash generated or created by any aspect of the LEAGUE operation and use of CITY facilities, including, but not limited to, attendance at LEAGUE events and concession sales.

6. The LEAGUE is responsible for cleaning and minor plumbing issues (i.e. clogs in sinks, urinals, or toilets) at facility restrooms and concessions including before, during and after league games, tournaments and any other club associated events. The LEAGUE shall provide restroom cleaning supplies, paper products, and hand soap for dispensers.

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

L. Lights used during practice must be turned off no later than 11:00 p.m. 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:

1. Participants in that day's league activities (players, cheerleaders, etc) shall be
charged no fee;
2. Persons eleven (11) years of age and younger shall be charged no more than one dollar ($1.00) per day;
3. 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, the LEAGUE 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, the LEAGUE shall file with the CITY a roster or list of registrants, including names and home addresses. The LEAGUE 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 the LEAGUE 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 the LEAGUE and shall become the property of CITY upon the termination of this Agreement.

A. 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 LEAGUE 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.
B. Nothing herein shall prevent the CITY from making improvements to a facility at CITY'S expense, if the CITY shall see fit to do so.
C. 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 LEAGUE, other than in response to an immediate threat to public health, safety or welfare, in which case no LEAGUE official's presence is required.
VII. A. The **LEAGUE** 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, the **LEAGUE** 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, the **LEAGUE** agrees to and shall, to the extent of the insurance available to the **LEAGUE** and **CITY** under the insurance policy furnished by the **LEAGUE** to the **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 **LEAGUE** 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 the **LEAGUE**. It is the expressed intention of the parties hereto, both **LEAGUE** and **CITY**, that the indemnity provided for in this paragraph is indemnity by **LEAGUE** 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. The **LEAGUE** 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 **LEAGUE** under such indemnity shall be limited to the coverage available to the **LEAGUE** and to **CITY** under the policy furnished by the **LEAGUE** 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 the **LEAGUE** 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 the LEAGUE, with the fax and address for all purposes herein stated below:

2426 East Tyler Suite A, Harlingen, Texas 78550

Unless the LEAGUE 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 the LEAGUE, CITY shall be under no obligation to refund any prepaid fees paid under the term of this Agreement and CITY, upon breach by the LEAGUE, shall have no obligation to release such property to mitigate damage to LEAGUE 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 the LEAGUE, said destruction from said cause shall render the facility unfit for use by the LEAGUE during the term of this Agreement, the Agreement shall automatically terminate.

X. LEAGUE shall annually furnish to City:

1. A copy of its tax-exempt, non-profit status under Section 501(c) of the United States Internal Revenue Code; and
2. A copy of its Certificate of Incorporation; and
3. A copy of its by-laws; and
4. A list of current Board Members and Officers with email addresses, fax numbers, addresses and phone numbers; and
5. A copy of its annual audited financial statement at the end of the play season; and
6. A copy of its current IRS Form 990; and
7. 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, CPM, City Manager

ATTEST:

BY: ____________________________
    Amanda Elizondo, City Secretary

ARROYO YOUTH SOCCER CLUB INC.

BY: ____________________________
    LEAGUE REPRESENTATIVE