

**SPECIAL  
CITY COMMISSION  
AGENDA  
August 29, 2017  
@ 5:30 P.M.  
TOWN HALL, CITY HALL  
118 E. Tyler Street  
Harlingen, Texas**

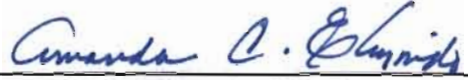
Notice is hereby given that the above governmental body will hold a Special Meeting on **Tuesday, August 29, 2017 at 5:30 p.m.**, in Town Hall Meeting Room, 2<sup>nd</sup> Floor, City Hall, 118 E. Tyler Street, Harlingen, Texas.

**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) 216-5002 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.**

- 1) Consideration and possible action to approve an ordinance on first reading adopting the City of Harlingen's Budget for Fiscal Year 2017-2018. Attachment (***Finance Dept.***)
- 2) Consideration and possible action to approve an ordinance on first reading by record vote adopting the 2017 Ad Valorem Tax Rate for Maintenance and Operation for Fiscal Year 2017-2018. Attachment (***Finance Dept.***)
- 3) Consideration and possible action to approve an ordinance on first reading by record vote adopting the 2017 Ad Valorem Tax Rate for the Interest and Sinking Fund for Fiscal Year 2017-2018. Attachment (***Finance Dept.***)
- 4) Consideration and possible action to change the Harlingen City Commission Regular Meeting date of September 6<sup>th</sup>, 2017 to September 5<sup>th</sup>, 2017. (***City Manager***)
- 5) Consideration and possible action to adopt Title VI / Nondiscrimination Plan. (***City Attorney***)
- 6) Executive/Closed Session on the following items:
  - a) Attorney consultation pursuant to Section 551.071, Texas Gov't. Code to provide legal advice and counsel in connection with certain collective bargaining issues contained in the Notice of Intent to Bargain by the duly recognized majority bargaining agent for the City's law enforcement officer, the Harlingen Police Officer and Law Enforcement Association (HPOLEA) and the Harlingen Professional Fire Fighters Association." (***City Manager***)
  - b) Consultation with legal counsel pursuant to Section 551.071 regarding contemplated litigation concerning SB 1004. (***City Manager***)
- 7) Consideration and possible action regarding engagement agreement with Bickerstaff Heath Delgado and Acosta LLP concerning possible SB 1004. (***City Manager***)
- 8) Consideration and possible action to approve an ordinance on first reading providing for permitting installation of network nodes and related facilities in public rights of way in conformity with SB 1004, establishing fees, establishing an effective date, providing for publication and ordaining other matters relating to the foregoing. Attachment (***Asst. City Attorney***)

I, the undersigned authority, do hereby certify that the above Notice of Meeting is a true and correct copy of said Notice and that I posted said Notice on the bulletin board in the City Hall of the City of Harlingen, a place convenient and readily accessible to the general public at all times and said Notice was posted on Friday, August 25, 2017 at 3:30 a.m.(p.m) and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this 25<sup>th</sup> day of August, 2017



Amanda C. Elizondo  
Amanda C. Elizondo, City Secretary

1)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **August 29, 2017**

**Agenda Item:**

Consider and take action to adopt an ordinance on first reading to adopt the City of Harlingen's 2017-2018 Fiscal Year Budget.

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

Signature: 

**Brief Summary:**

S.B.656 effective September 1, 2013 requires the City Commission's vote to adopt a budget to be a record vote. The 2017-2018 proposed revenue budget totals \$72,560,325 and the proposed expenditures budget totals \$73,535,782 as itemized on attachment "Exhibit A". The Harlingen Downtown Fund, Development Corporation (4A), Community Development Block Grant Fund, Harlingen Waterworks System and Valley International Airport Budgets are under separate resolutions.

**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 appropriations ordinance authorizing \$72,560,325 in revenues and \$73,535,782 in expenditures.

City Manager's approval:  Yes  No  N/A

**Comments:**

City Attorney's approval:  Yes  No  N/A

ORDINANCE NO. 17-\_\_\_\_\_

AN ORDINANCE ADOPTING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR THE FISCAL YEAR OCT. 1, 2017 THROUGH SEPT. 30, 2018 IN THE AMOUNT OF \$72,560,325 and \$73,535,782 RESPECTIVELY; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the City Manager of the City of Harlingen has prepared and presented to the City Commission a budget for the fiscal year October 1, 2017 through September 30, 2018; and

WHEREAS, a public hearing on said budget was called for the 16th day of August, 2017 at 5:30 P.M. by publication in a newspaper of general circulation at least ten days and not more than thirty days before the public hearing to be held at City Hall, in the City of Harlingen, Texas, where and when any and all interested persons might appear and be heard with reference to any item contained in said budget; and

WHEREAS, said public hearing was held on the 16th day of August, 2017 at the time and place aforesaid, and the said budget was discussed, and all interested persons were given an opportunity to be heard on any matter relative thereto, and all interested persons having appeared and been heard, and there be no other persons seeking to be heard with reference to any matter concerning budget, the said public hearing was closed on the 16th day of August, 2017; now, therefore

**BE IT ORDAINED BY THE CITY OF HARLINGEN:**

**SECTION I.** That the budget for revenues and expenditures of the City of Harlingen, Texas for the fiscal year October 1, 2017 and ending September 30, 2018 (exclusive of the revenues and expenditures of the Harlingen Waterworks System, Valley International Airport, Harlingen Downtown Fund, Community Development Block Grant Fund, and Development Corporation Fund) in the total amount of Seven-Two Million Five Hundred Sixty Thousand, Three Hundred Twenty-Five Dollars (\$72,560,325) in revenues and Seventy-Three Million Five Hundred Thirty-Five Thousand Seven Hundred Eighty-Two Dollars(\$73,535,782) in

expenditures is hereby adopted. A summary of the budget adopted is hereby attached to this Ordinance and incorporated herein as Exhibit A and the complete detail budget adopted by this Ordinance is incorporated herein by reference and shall be made available for public inspection at the office of the City Secretary during regular business hours.

**SECTION II.** That the City Manager of the City of Harlingen, Texas, is hereby authorized to increase the budget by the amount of purchase orders outstanding as of September 30, 2018.

**SECTION III.** That the City Manager of the City of Harlingen, Texas, is hereby authorized to increase the budget by the amount of funds recovered for repair or replacement of property or equipment damaged by others.

**SECTION IV.** 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 \_\_\_\_\_, 2017 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, TITLE 5, SUBTITLE A., CHAPTER 551.

**CITY OF HARLINGEN**

\_\_\_\_\_  
Chris Boswell, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

EXHIBIT "A"

CITY OF HARLINGEN  
 PROPOSED BUDGET AMENDMENT  
 FOR FISCAL YEAR 2017-2018

	Estimated Fund Balance 9/30/2017	Revenues	Expenditures	Revenues Over (Expenditures Over)	Estimated Fund Balance 9/30/2018
General Fund	\$16,288,576	\$42,513,557	\$43,278,272	(\$764,715)	\$15,523,861
Metropolitan Planning Organization	143	323,595	323,723	(128)	15
Tennis Court	55,535	11,000	38,000	(27,000)	28,535
Hotel / Motel	878,927	861,000	879,492	(18,492)	860,435
Catastrophic Emergency	821,374	2,350	25,000	(22,650)	798,724
Free Trade Bridge	565,958	321,760	325,000	(3,240)	562,718
Communication Center	-	12,776	1,258	11,518	11,518
COPS Grant	-	105,000	105,000	-	-
Convention & Visitors Bureau	586,982	424,000	433,332	(9,332)	577,650
Awards - Restricted	-	572,512	572,512	-	-
PEG Fund	495,886	85,000	-	85,000	580,886
Federal Forfeitures	102,440	124,000	124,000	-	102,440
State Forfeitures	-	60,000	60,000	-	-
Tax Increment Financing (TIF) #1	192,643	61,460	-	61,460	254,103
Tax Increment Financing (TIF) #2	99,744	65,100	-	65,100	164,844
Tax Increment Financing (TIF) #3	339,912	242,700	523,396	(280,696)	59,216
Debt Service	766,005	4,846,244	4,690,508	155,736	921,741
Petition Paving	158,490	-	86,061	(86,061)	72,429
Infrastructure	610,063	1,400,000	1,990,000	(590,000)	20,063
Municipal Auditorium (Note 1)	164,243	356,000	349,091	6,909	171,152
Sanitation/Sanitary Landfill (Note 1)	5,592,196	9,151,900	9,887,375	(735,475)	4,856,721
Harl Arts & Heritage Museum (Note 1)	20,252	101,250	121,502	(20,252)	-
Municipal Golf Course (Note 1)	(292,358)	1,178,107	1,206,526	(28,419)	(320,777)
Motor Vehicle / Warehouse (Note 1)	512,910	1,822,000	2,105,107	(283,107)	229,803
Motor Vehicle / Replacement	2,652,605	2,925,589	1,417,202	1,508,387	4,160,992
Health Insurance (Note 1)	582,912	4,993,425	4,993,425	-	582,912
<b>Grand Total</b>	<b>\$ 31,195,438</b>	<b>\$ 72,560,325</b>	<b>\$ 73,535,782</b>	<b>\$ (975,457)</b>	<b>\$ 30,219,981</b>

Note 1 - Working Capital is the fund balance amount.

2)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **August 29, 2017**

**Agenda Item:**

Consider and take action to adopt an ordinance on first reading to adopt the 2017 ad valorem tax rate for maintenance and operation for Fiscal Year 2017-2018.

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

Signature: 

**Brief Summary:**

S.B. 656 effective September 1, 2013 requires the City Commission's vote to adopt the City's tax rate to be a record vote. The adoption of the City's tax rate is done in two parts. The first is the Maintenance and Operation rate, which is proposed at \$0.456327 per \$100 valuation. Together with the Interest and Sinking rate the total proposed rate remains the same as the prior year at \$0.588827. All legal requirements have been met for the adoption of the tax rate.

**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 proposed M & O tax rate.

City Manager's approval:  Yes  No  N/A

**Comments:**

City Attorney's approval:  Yes  No  N/A

ORDINANCE NO.17-\_\_\_\_\_

AN ORDINANCE FIXING THE AD VALOREM TAX RATE FOR MAINTENANCE AND OPERATIONS FOR THE CITY OF HARLINGEN, TEXAS FOR THE CALENDAR YEAR 2017 AT \$0.456327 PER \$100.00 DOLLARS VALUATION; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the tax rolls of all taxable property in the City of Harlingen, Texas have been prepared and submitted to the Director of Finance of the City of Harlingen, Texas by the Chief Appraiser of the Cameron County Appraisal District: and

WHEREAS, such tax rolls as certified by the Chief Appraiser show a taxable valuation, after making deductions for all exemptions authorized under State law and under ordinances of the City of Harlingen, Texas of Three Billion One Hundred Thirty- Four Million Forty-Eight Thousand Eight Hundred Thirty Dollars (\$3,134,048,830); now therefore,

WHEREAS, The City of Harlingen has complied with all of the legal, procedural, and notice requirements to enact this ordinance fixing the ad valorem tax rate for maintenance and operations for the City for the calendar year 2017; and

WHEREAS, THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE; now therefore,

BE IT ORDAINED BY THE CITY OF HARLINGEN:

That after considering, allowing and applying all income for the City of Harlingen maintenance and operations from other sources upon the annual budget it is required that the maintenance and operation tax rate for 2017 be and the same is



hereby fixed at \$0.456327 for each One Hundred Dollars (\$100.00) of assessed valuation of all property subject to taxation, real and personal, located within the City of Harlingen, Texas.

BE IT FURTHERED ORDAINED that a tax rate set at the foregoing rate is hereby levied on all properties subject to taxation, real and personal, located within the City of Harlingen, Texas on the 1<sup>st</sup> day of January 2017 and a lien against such property to secure the payment of such taxes levied is hereby established.

BE IT FURTHERED ORDAINED 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 \_\_\_\_\_, 2017 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, TITLE 5, SUBTITLE A., CHAPTER 551.

CITY OF HARLINGEN

\_\_\_\_\_  
Chris Boswell, Mayor

ATTEST:

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

3)


**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **August 29, 2017**

**Agenda Item:**

Consider and take action to adopt an ordinance on first reading to adopt the 2017 ad valorem tax rate for interest and sinking for Fiscal Year 2017-2018.

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

Signature: 

**Brief Summary:**

S.B. 656 effective September 1, 2013 requires the City Commission's vote to adopt the City's tax rate to be a record vote. The adoption of the City's tax rate is done in two parts. The second is the Interest and Sinking rate, which is proposed at \$0.132500 per \$100 valuation. The Interest and Sinking portion of the property taxes pays for the City's debt service for the fiscal year. The total tax rate proposed is \$0.588827, which remains the same as the prior year. All legal requirements have been met for the adoption of the tax rate.

**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 proposed I & S tax rate.

City Manager's approval:  Yes  No  N/A

**Comments:**

City Attorney's approval:  Yes  No  N/A

ORDINANCE NO. 17-\_\_\_\_\_

AN ORDINANCE FIXING THE AD VALOREM TAX RATE FOR INTEREST AND SINKING PAYMENTS FOR THE CITY OF HARLINGEN, TEXAS FOR THE CALENDAR YEAR 2017 AT \$0.132500 PER \$100.00 DOLLARS VALUATION; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the tax rolls of all taxable property in the City of Harlingen, Texas have been prepared and submitted to the Director of Finance of the City of Harlingen, Texas by the Chief Appraiser of the Cameron County Appraisal District; and

WHEREAS, such tax rolls as certified by the Chief Appraiser show a taxable valuation, after making deductions for all exemptions authorized under State law and under ordinances of the City of Harlingen, Texas of Three Billion One Hundred Thirty- Four Million Forty-Eight Thousand Eight Hundred Thirty Dollars (\$3,134,048,830); now therefore,

**BE IT ORDAINED BY THE CITY OF HARLINGEN:**

That after considering, allowing and applying all income for the City of Harlingen maintenance and operations from other sources upon the annual budget it is required that the interest and sinking tax rate for 2017 be and the same is hereby fixed at \$0.132500 for each One Hundred Dollars (\$100.00) of assessed valuation of all property subject to taxation, real and personal, located within the City of Harlingen, Texas.

**BE IT FURTHERED ORDAINED** that a tax rate set at the foregoing rate is hereby levied on all properties subject to taxation, real and personal, located within the City of Harlingen, Texas on the 1<sup>st</sup> day of January 2017 and a lien against such property to secure the payment of such taxes levied

is hereby established.

BE IT FURTHERED ORDAINED 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 \_\_\_\_\_, 2017 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, TITLE 5, SUBTITLE A., CHAPTER 551.

CITY OF HARLINGEN

\_\_\_\_\_  
Chris Boswell, Mayor

ATTEST:

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

8)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR THE PERMITTING OF INSTALLATION OF NETWORK NODES AND RELATED FACILITIES IN PUBLIC RIGHTS OF WAY IN CONFORMITY WITH SB 1004, ESTABLISHING FEES, ESTABLISHING AN EFFECTIVE DATE, PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATING TO THE FOREGOING.

WHEREAS, the City of Harlingen uses the Public Right of Way within its limits to provide essential services to its residents and businesses.

WHEREAS, the growing demand for wireless telecommunications services has resulted in increasing requests from Network Providers to build robust networks by placing Network Nodes and other wireless facilities within the City’s Public Right of Way.

WHEREAS, Senate Bill 1004 was passed by the Texas State Legislature on May 27, 2017, and, among other things, amends Subtitle A, Title 9 of the Texas Local Government Code by adding Chapter 284 to establish a regulatory scheme that may be applied to the deployment of Network Nodes in the Public Right of Way of a municipal corporation;

WHEREAS, the City Commission of the City of Harlingen, Texas, deems it necessary for the health, safety, and welfare of its residents to manage the occupancy and use of the City’s Public Right of Way to the extent permitted by law;

WHEREAS, the City of Harlingen, Texas, shall continue to act as the trustee for the Public Right of Way; and,

WHEREAS, nothing in this Ordinance shall replace or modify the City of Harlingen’s regulations or review for telecommunications facilities that are not located within the public right-of-way;

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

SECTION I. The City of Harlingen adopts the following Ordinance:

Section 1. DEFINITIONS

For the purposes of this Ordinance, the following definitions apply:

“Abandoned” – cessation of use of Telecommunications Facilities for a period in excess of sixty (60) days.

“Administrative Approval” – approval granted after administrative review.

“Administrative Review” – non-discretionary evaluation of an application. This process is not subject to a public hearing nor any other type of zoning or site plan review. The requirements and procedures for Administrative Review are established in Section IV of this Ordinance.

“Collocation” – the placement or installation of Telecommunications Facilities on or within an Existing Structure, in compliance with applicable codes, and without a Substantial Modification of the Existing Structure.

“Existing Structure” – a previously erected Support Structure or Utility Pole that is capable of supporting the installation of Telecommunications Facilities.

“Minor Modifications” – improvements that change the Telecommunication Facilities on an Existing Structure and/or the Existing Structure itself but of a level, quality or intensity that is less than a Substantial Modification. For purposes of this Ordinance, Minor Modifications include Replacements.

“Ordinary Maintenance” – activities ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes (i) inspections, testing and modifications that maintain functional capacity and structural integrity (for example, the strengthening of an Existing Structure’s foundation or the Existing Structure itself); (ii) replacing Telecommunications Facilities of a similar size, weight, shape and color on or within an Existing Structure; and (iii) relocating relevant portions of the Telecommunications Facilities to different height levels on Existing Structures upon which they are currently located. Ordinary Maintenance does not include Substantial Modifications.

“Public Right-of-Way” – any public street, alley, sidewalk, or parkway that is owned or granted by easement, operated or controlled by the City of Harlingen.

“Replacement” – constructing a Support Structure of equal proportions and of equal height or such other height that would not constitute a Substantial Modification to the Existing Structure for which this new Support Structure is substituting in order to support Telecommunications Facilities or to accommodate Collocation.

“Special Use Permit Approval” – approval granted after Special Use Permit Review as provided by Chapter 111 of the Code of Ordinances of the City of Harlingen.

“Special Use Permit Review” –evaluation of an application by the process applicable the Special Use Permits under Chapter 111 of the Harlingen Code of Ordinances.

“Substantial Modification” – meets any one (1) or more of the following criteria:

- (i) Increases the Existing Structure’s vertical height by more than twenty percent (20%) or ten (10) feet, whichever is greater;
- (ii) Adds an appurtenance to the body of an Existing Structure that protrudes horizontally from the edge of the Existing Structure more than six (6) feet, or more than the width of the Existing Structure at the level of the appurtenance, whichever is greater;
- (iii) Entails any excavation or deployment outside the current area occupied by the Existing Structure; or
- (iv) Does not comply with conditions associated with the prior approval of the Existing Structure or Telecommunications Facilities, unless non-compliance is due to an increase

in height, increase in width, or new excavation that does not exceed the corresponding Substantial Modification thresholds.

“Support Structure” – a structure proposed by applicant to support Telecommunications Facilities, including steel monopoles, wooden or concrete utility poles, or other freestanding structures, as approved under this Ordinance.

“Utility Pole” – a previously erected structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or to provide lighting.

“Telecommunications Facilities” – all equipment and network components owned, operated, leased or subleased in connection with the operation of a telecommunications network, including, but not limited to, voice, data, and internet, that are installed on or within the Support Structure or Utility Pole, as applicable. Telecommunications Facilities includes, without limitation, directional antennas (such as microwave dishes) and omnidirectional antennas (such as canisters and whips), radio transceivers, coaxial or fiber optic cables, regular and back-up power supplies, and comparable equipment, regardless of technological configuration.

## Section 2. AUTHORIZATION REQUIRED FOR TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES

No person, firm, corporation, association, utility or entity shall enter upon the Public Right-of-Way, or in any manner establish a physical presence on, upon, in or over the Public Right-of-Way for the purpose of installing, constructing, maintaining and operating Telecommunications Facilities, Support Structures or related facilities and appurtenances thereto unless it possesses a Service Provider Certificate of Authority to provide data only, facilities-based, and resale telecommunications services from the Public Utility Commission of Texas (the “Certificate”) and express written permission of the City of Harlingen as set forth in this Ordinance.

## Section 3. APPROVALS REQUIRED FOR TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES

A. Administrative Approval. The following applications for Telecommunications Facilities and Support Structures in the Public Rights-of-Way are subject to Administrative Review:

1. Collocations and Minor Modifications in any zoning district;
2. Support Structures that are less than or equal to sixty (60) feet in height in any zoning district except residential districts;
3. Support Structures that are less than or equal to forty-five (45) feet in height in any residential district; and
4. Support Structures that are less than or equal to one hundred twenty (120) feet in height in any industrial district and commercial district.

B. Special Use Permit Approval. The following applications shall be permitted in any zoning district subject to Special Permit Review:

1. Substantial Modifications; and
2. Support Structures not permitted in the underlying zoning district as set forth in Section III(A) above.

C. Ordinary Maintenance shall not be subject to the approval process.

#### Section 4. REQUIREMENTS AND PROCEDURES FOR ADMINISTRATIVE APPROVAL

A. Content of Administrative Review Applications. All applications subject to Administrative Review must contain the following:

1. An application form signed by applicant;
2. Evidence of the Certificate;
3. The applicable Administrative Review application fee;
4. Proof of insurance as set forth in Section 7(C) below;
5. Site plans detailing proposed improvements;
6. Equipment specifications and method of installation; and
7. For Collocations, a pole loading analysis certified by a professional structural engineer.

B. Procedure for Administrative Review.

1. Applications for a Support Structure with proposed Telecommunications Facilities shall be considered together as one (1) application requiring a single Administrative Review application fee.
2. Within thirty (30) days of receipt of an application subject to Administrative Review, the department of planning and development shall either (a) inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (b) deem the application complete.
3. An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's unreasonable failure to complete the application within thirty (30) days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new Administrative Review application fee.
4. The department of planning and development shall issue a written decision granting or denying the request within thirty (30) days of the initial submission of the application, ten (10) days if for transport facilities only, unless:
  - i. The department of planning and development notified applicant that its application was incomplete, in which case, the decision will be issued within ninety (90) days; or
  - ii. Extension of time is agreed to by the applicant.Failure to issue a written decision within thirty (30) days, ten (10) days in the case of transport facilities only, unless otherwise set forth in this Section 4(B), shall constitute an approval of the application.
5. Should the department of planning and development deny the application, it will specify the areas of non-compliance.

#### Section 5. REQUIREMENTS AND PROCEDURES FOR SPECIAL PERMIT APPROVAL



A. Content of Special Use Permit Review Applications. All applications subject to Special Use Permit Review must contain the following:

1. An application form signed by applicant;
2. Evidence of the Certificate;
3. The applicable Special Permit Review application fee;
4. Proof of insurance as set forth in Section 7(C) below;
5. Written description and scaled drawings of the proposed Substantial Modification or the proposed Support Structure, whichever applicable, including structure height, ground and structure design, and proposed materials;
6. Line-of-sight diagram or photo simulation, showing the proposed Substantial Modification or the proposed Support Structure, whichever applicable, viewed from at least four (4) directions within the surrounding areas; and
7. A copy of the notification that will be sent out to property owners as set forth in Section 5(B)(5) below.

B. Procedure for Special Permit Review.

1. Applications for a Support Structure with proposed Telecommunications Facilities shall be considered together as one (1) application requiring a single Special Permit Review application fee.
2. Applications shall follow the process established by Chapter 111, Article XV, for Special Use Permits.

Section 6. FEES.

A. A person granted a permit shall pay an annual Public Right of Way Rate of \$250.00 per Network Node.

B. A person granted a permit to install a Transport Facility shall pay a Public Right of Way Rate of \$28.00 per node, per month.

C. The City shall allow Collocation of Network Nodes on Service Poles for a fee of \$20.00 per year, per service pole.

Section 6. GENERAL STANDARDS AND DESIGN REQUIREMENTS

A. Design. Support Structures and Telecommunications Facilities shall utilize building materials that are compatible with the surrounding area and environment.

B. Lighting. Support Structures or Telecommunications Facilities shall not be lighted or marked by artificial means, except when mounted on an existing light pole or where illumination is specifically required by the Federal Aviation Administration or other federal, state or local regulations.

C. Signage. Signs located at the Support Structure or Telecommunications Facilities shall be limited to ownership and contact information, Federal Communications Commission ("FCC")

antenna registration number (if required) and any other information as required by government regulation. Any other identification or commercial advertising shall be strictly prohibited, except for applicable warning and equipment information signage required by the manufacturer or by federal, state or local regulations.

D. Radio Frequency Emissions and Non-interference. Applicant shall comply with all applicable FCC standards.

## Section 7. MISCELLANEOUS PROVISIONS

A. Abandonment and Removal. The City of Harlingen may require that Abandoned Telecommunications Facilities be removed by providing written notice to the owner of such Telecommunications Facilities and giving the owner the opportunity to take such action(s) as may be necessary to reinstate the Telecommunications Facilities within thirty (30) days of receipt of said written notice. In the event the owner of such Abandoned Telecommunications Facilities fails to reinstate service within the thirty (30) day period, the owner shall be required to remove the same within thirty (30) days thereafter. In the event the owner fails to remove the foregoing Abandoned Telecommunications Facilities within the thirty (30) day period, the City of Harlingen may cause such removal and any costs associated with such removal shall be charged to the owner.

### B. Liability.

a. Applicant hereby assumes all risk for liability for damages that may occur to persons or property on account of the proposed work, whether completed by applicant or applicant's agent or contractor completing, installing, or maintaining the work on applicant's behalf. Applicant shall procure and maintain liability insurance to protect the public from injuries occurring as a result of the proposed work and to protect the City of Harlingen from all liability and damages on account of injuries to workers, as provided by law, and to protect the City of Harlingen from all liability and damages occasioned by the proposed work.

b. Applicant shall procure "Certificates of Insurance" or other satisfactory evidence to show applicant carries:

i. Commercial General Liability insurance and Commercial Automobile Liability insurance covering the City of Harlingen against any and all claims, injury or damage to persons or property, both real and personal, caused by the proposed work, in an amount not less than One Million U.S. Dollars (\$1,000,000.00) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million U.S. Dollars (\$2,000,000.00) annual aggregate for each personal injury liability; and

ii. Statutory workers' compensation and employer's liability insurance in an amount not less than One Million U.S. Dollars (\$1,000,000.00).

c. All insurance coverages shall name the City of Harlingen as an additional insured and shall require the insurer to notify the City of Harlingen at least thirty (30) days in advance of any cancellation or change in insurance coverages.

d. Applicant shall procure proof that all contractors and all of their subcontractors who perform work on behalf of applicant shall carry, in full force and effect, workers'

compensation and employers' liability, comprehensive general liability and automobile liability insurance coverages of the type that applicant is required to obtain under this Section VII(C) with the same limits.

C. Indemnification. In accordance with Texas Local Government Code sec. 283.057, Applicant shall defend, indemnify, and hold harmless the City of Harlingen, its Council, boards, commissions, officers, agents, volunteers, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, resulting from the alleged acts or omissions of permittee, its officers, agents, or employees in connection with the permitted work. Nothing contained herein shall be construed as obligating permittee to indemnify the City of Harlingen for losses resulting from its sole or active negligence or willful misconduct.

SECTION II: That the City does not waive any challenge to the validity of SB 1004 and related State statutes, and reserves the right to modify any requirement of this ordinance at any time, and to disregard any portion of the ordinance that is required by virtue of any state law that may be invalidated.

SECTION III. 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.

SECTION IV: That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause true and correct copies of Section I of the Ordinance to be published as an addition to the Code of Ordinances of the City of Harlingen, Texas.

FINALLY ENACTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2017 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,

CITY OF HARLINGEN

\_\_\_\_\_  
Chris Boswell, MAYOR

ATTEST:

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Amanda Elizondo, CITY SECRETARY