I. Call To Order

II. Roll Call

III. Invocation

IV. Pledges Of Allegiance - United States And Texas

EXECUTIVE SESSION

NOTE: The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The City Council may also publicly discuss any item listed on the agenda for Executive Session.

1. Consider action, by motion, or provide direction to Staff regarding the following Executive Session item in accordance with Local Government Code Section §551.071 - Consultation With Attorney - to receive legal advice regarding claims and pending litigation questioning the validity of Ordinance No. 2008-16 that annexed a 563.199 tract of land commonly known as the Hillert Tract into the City of San Marcos including litigation threatened by the City of Martindale, Texas and Mr. Gerald Lee Bennett; and the pending lawsuit filed on April 18, 2018 styled: The Mayan At San Marcos, LLC, vs. City of San Marcos, Cause No. 18-0958-CV-A, in the 25th Judicial District Court of Guadalupe County, Texas.

V. 30 Minute Citizen Comment Period

PRESENTATIONS

2. Receive a Staff presentation of the City of San Marcos Stormwater Master Plan, and provide direction to Staff.

CONSENT AGENDA

THE FOLLOWING ORDINANCES, RESOLUTIONS AND OTHER ITEMS MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COUNCIL MEMBER OR A CITIZEN, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.

3. Consider approval, by motion, of the following meeting Minutes:
   A) March 20, 2018 - Work Session Meeting Minutes
Consider approval of Ordinance 2018-07, on the second of two readings, amending the City’s 2017-2018 Fiscal Year Budget by budgeting and appropriating $442,000 from General Fund to be distributed to The Village to provide funding for the construction of Phase II of The Village Main Project; and providing an effective date.

Consider approval of Resolution 2018-62R, approving the recommendation of the San Marcos Commission on Children and Youth to allocate $50,285 in 2017-2018 Fiscal Year funding for 14 youth programs that contribute to implementation of the Youth Master Plan; authorizing the City Manager to take such actions as are necessary to enable such allocation of funds; and declaring an effective date.

Consider approval of Resolution 2018-63R, approving the award of a term contract to Integrated Generator Systems, Inc., for generator maintenance, repair services and parts (IFB 218-210) in the amount not to exceed amount of $140,000 and authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

Consider approval of Resolution 2018-64R, approving the award of a contract for project site rehabilitation, underdrain piping replacement, and new landscaping for the Hutchison Street Biofiltration Pond Improvements Project (IFB 218-153) for the total purchase amount of $99,888.00 from M2 Federal, Inc.; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City and declaring an effective date.

Consider approval of Resolution 2018-65R, approving an amendment of the current Meet and Confer Agreement between the San Marcos Professional Firefighters Association Local #3963 and City of San Marcos to provide for the establishment of the Fire Marshal’s Office within the Fire Department and authorize the Fire Chief to hire a Fire Marshal from outside the Department’s classified service; and declaring an effective date.

Consider approval of Resolution 2018-66R, approving Change Order No.1 to the contract with Deloitte and Touche to perform additional consulting services related to the preparation, reconciliation and submission of projects for FEMA Public Assistance Grants and increasing the total amount of the project by $55,000.00; ratifying the City’s execution of the original contract and the increase in dollar amount; and declaring an effective date.

Consider approval of Resolution 2018-67R, approving the Stormwater Master Plan; and declaring an effective date.

**PUBLIC HEARINGS**

11. Receive a staff presentation and hold a Public Hearing to receive comments for or against Resolution 2018-69R, approving Substantial Amendment No. 6 to the Community
Development Block Grant-Disaster Recovery ("CDBG-DR") Action Plan to include the Reconstruction On City-Owned Property ("RCOP") Program to enable qualified residents affected by the 2015 floods to construct new homes on city-owned lots; approving the allocation of CDBG-DR funds to projects and activities under the RCOP program; authorizing the City Manager or his designee to act as the official representative of the City in matters related to the CDBG-DR program and action plan; and declaring an effective date; and consider approval of Resolution 2018-69R.

NON-CONSENT AGENDA

12. Consider approval of Ordinance 2018-11, on the first of two readings, amending the Design Manual for the Installation of Network Node Support Poles authorized by Ordinance 2017-56 to establish a daily penalty of $500 for failure to relocate improperly placed equipment; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

13. Consider approval of Ordinance 2018-12, on the first of two readings, amending Chapter 14, Buildings and Building Regulations, of the City Code to implement recent legislation prohibiting the City from collecting fees from members of certain trades before they are authorized to practice their trades in the City; providing for an effective date.

14. Consider approval of Ordinance 2018-13, on the first of two readings, adopting fees to be charged by the City for various city services, including changes to some existing fees and the addition of new fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

15. Consider approval of Ordinance 2018-14, on the first of two readings, amending Section 2.041 of the San Marcos City Code to update the frequency of Regular Meetings per month; including procedural provisions; and declaring an effective date.

16. Consider approval of Resolution 2018-70R, approving the allocation of five City-owned residential lots to be made available for qualified residents affected by the 2015 floods to construct new homes under the Housing and Urban Development Community Development Block Grant-Disaster Recovery-Reconstruction on City-owned property ("RCOP") Program; authorizing the City Manager or his designee to act as the official representative of the City in matters related to the RCOP program; and declaring an effective date.

17. Consider approval of Resolution 2018-61R, approving an Action Plan that outlines further measures to be taken to implement or enhance the purposes and objectives of the newly adopted San Marcos Development Code ("Code SMTX") and associated changes to the City’s Comprehensive Plan; authorizing City Staff to undertake such efforts as are necessary to implement such measures; and declaring an effective date.

18. Consider approval, by motion, of the following matters pertaining to the lease of property located at 201 South LBJ (the site of the former Dixie Cream Donut Shop):
   a) Approving the acceptance of an amount in settlement of rent due under an existing lease of real property located at 201 South LBJ.
   b) Approving the termination of the existing lease
c) Approving a new Lease Agreement of the property with Suenos & Rezo, LLC for the operation of a frozen yogurt shop and authorizing the City Manager to execute the Lease Agreement.

19. Discuss and consider appointments to fill vacancies the Cemetery Commission and the San Marcos Commission on Children and Youth and provide direction to Staff.

VI. Question and Answer Session with Press and Public.

This is an opportunity for the Press and Public to ask questions related to items on this agenda.

VII. Adjournment.

ADDENDUM

The following item has been amended from when originally posted on Monday, April 23, 2018:

Item #11 was previously posted as, and has been updated to the posting above on Item #18: Consider approval of Resolution 2018-68R, approving a Lease Agreement with Suenos &Rezo, LLC for the year to year lease of approximately 4500 square feet of space at 201 South LBJ (the site of the former Dixie Cream Donut Shop) for the operation of a frozen yogurt shop; authorizing the City Manager to execute said lease; and declaring an effective date.

The following item has been added from when the Agenda was originally posted on Monday, April 23, 2018:

Item #15: Consider approval of Ordinance 2018-14, on the first of two readings, amending Section 2.041 of the San Marcos City Code to update the frequency of Regular Meetings per month; including procedural provisions; and declaring an effective date.

ADDENDUM POSTED ON FRIDAY, APRIL 27, 2018 AT 4:15PM

JAMIE LEE CASE, TRMC, CITY CLERK

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov
AGENDA CAPTION:
Consider action, by motion, or provide direction to Staff regarding the following Executive Session item in accordance with Local Government Code Section §551.071 - Consultation With Attorney - to receive legal advice regarding claims and pending litigation questioning the validity of Ordinance No. 2008-16 that annexed a 563.199 tract of land commonly known as the Hillert Tract into the City of San Marcos including litigation threatened by the City of Martindale, Texas and Mr. Gerald Lee Bennett; and the pending lawsuit filed on April 18, 2018 styled: The Mayan At San Marcos, LLC, vs. City of San Marcos, Cause No. 18-0958-CV-A, in the 25th Judicial District Court of Guadalupe County, Texas.
File #: ID#18-212, Version: 1

AGENDA CAPTION:
Receive a Staff presentation of the City of San Marcos Stormwater Master Plan, and provide direction to Staff.
Meeting date: May 1, 2018

Department: Engineering/C.I.P.

Amount & Source of Funding
Funds Required: N/A
Account Number: C58
Funds Available: Click or tap here to enter text.
Account Name: Click or tap here to enter text.

Fiscal Note:
Prior Council Action: None

City Council Strategic Initiative: [Please select from the dropdown menu below]
Stormwater
Goal #9 Protect & Preserve San Marcos River and Edwards Aquifer Recharge Zone
Goal #5 Maintain & Improve City's Infrastructure

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☒ Environment & Resource Protection - Public & Private Sector Partnership to Protect Water Quality & proper development in San Marcos and Blanco Rivers
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☐ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Choose an item.
Background Information:
Receive a presentation on the 2018 City of San Marcos Stormwater Master Plan. A resolution on consent will adopt the plan.

Council Committee, Board/Commission Action:
Click or tap here to enter text.

Alternatives:
Click or tap here to enter text.

Recommendation:
City of San Marcos
STORMWATER MASTER PLAN
PURPOSE

Regulate/guide

Compliance state and federal

Planning CIP and emergency response

A RIVER RUNS THROUGH US
MAJOR CHALLENGES

Population Growth  Water Quality  Flooding  Sustainability

A RIVER RUNS THROUGH US
Our Vision

- Economic Development
- Environment & Resource Protection
- Land Use
- Neighborhoods and Housing
- Parks, Public Spaces and Facilities
- Transportation
Comprehensive Plan

- LDC-Rewrite (Code SMTX)
- Flood Ord.
- TPDES MS4

Upper San Marcos River Watershed Protection Plan (USMR, 319 grant)

- Habitat Conservation / WQ Protection Plan

GBRA Flood Protection Planning (Basinwide Study), Phase 1 & 2

- FEMA Flood Insurance Rate Map Revision

- Capital Improvement Plan

- HUD Community Development Block Grant – Disaster Recovery (CDBG-DR)

Stormwater Master Plan
Comprehensive Plan

- Watershed Protection Plan
- GBRA Flood Protection Planning
- FEMA Flood Insurance Rate Map
- HUD CDGB-DR
- Capital Improvement Plan
- Habitat Conservation Plan
- Edward's Aquifer Recovery Implementation Program
- TPDES MS4
- LDC

Stormwater Master Plan
CATALYSTS

- Quality
- Quantity

A RIVER RUNS THROUGH US
WATER QUALITY

• Drinking water supply

• Endangered species
  – Texas Wild Rice
  – Fountain Darter
  – San Marcos Salamander
  – San Marcos Gambusia
  – Texas Blind Salamander

• State compliance: Edwards Aquifer Rules

• Federal compliance
  • Municipal Separate Storm Sewer System (MS4)
  • Habitat Conservation Plan (HCP)
We’ve never flooded like this before. Right?

Current estimate of 0.1% (published Sept 2016)

Previous estimate of 0.1%

Blanco River Floods
FLOODING

FLOOD OF OCT., 1959
HIGH WATER AT THE LOOP 82 BRIDGE,
SAN MARCOS RIVER IN SAN MARCOS
ACTIONS

- Creek and Riverine Flooding
- Urban Flooding (local drainage)
- Water Quality
- Disaster Recovery
- Regulatory Improvements
Creek and Riverine Flooding

- Partner with GBRA study
Existing & Fully Developed Floodplain Maps

- Cottonwood Creek
- Bypass Creek
- Blanco River
- San Marcos River
- Purgatory Creek
- Schulle Canyon Creek
- Sink Creek
- Willow Springs Creek
Urban Flooding (Local Drainage)

- Not necessarily in a defined floodplain
- Site specific problem areas
- Integrated water quality
- Reflects previous studies
- Correlated to all City CIP
More Detailed Analysis and Solutions

- Partners with Hays Co. and Upper San Marcos Watershed District
- 2D computer modeling
- Emergency preparedness (dam simulations)
Water Quality

• Habitat Conservation Plan (HCP)
• Texas State University and City of San Marcos
• Scientific methods
• Identifies threats to WQ
• Recommends expanded areas of protection
• Identifies retrofit solutions
• Identifies other measures and strategies
Water Quality

- 20 strategic retrofit sites
- WQPP integration with CIP
- Continued collaboration with Meadows Center for Water and the Environment
- Partner in Habitat Conservation Plan
CDGB Disaster Recovery

- Contract Awarded: January 2017
- Identify & prioritize infrastructure projects
- $19.5M budget for infrastructure
- Benefit low to moderate income residents
- To be implemented within 6 yrs
## CDGB – DR Projects

<table>
<thead>
<tr>
<th>Project</th>
<th>Cost</th>
<th>Construction Start</th>
<th>Construction Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Midtown</td>
<td>$850,000</td>
<td>2018</td>
<td>2018</td>
</tr>
<tr>
<td>Blanco Gardens</td>
<td>$5,000,000</td>
<td>2019</td>
<td>2021</td>
</tr>
<tr>
<td>Clarewood Barbara</td>
<td>$2,500,000</td>
<td>2019</td>
<td>2021</td>
</tr>
<tr>
<td>Blanco Riverine</td>
<td>$11,500,000</td>
<td>2020</td>
<td>2022</td>
</tr>
<tr>
<td>Uhland Road</td>
<td>$4,200,000</td>
<td>2019</td>
<td>2021</td>
</tr>
</tbody>
</table>
Regulatory Improvements

- **Clean Water Act** - MS4 (regulates storm drain discharges)
- **Code SMTX** (Updates to City’s Land Development Code)
- **Floodplain Ordinance**
Code SMTX

- Land use planning/suitability
- Fee in lieu of water quality (USMD)
- Fee in lieu of detention
- Stream buffers
- Water quality protection zones
- Stream protection volume
• Adopt watershed specific water quality regulations
• Develop regional detention and water quality strategies
• Adopt comprehensive floodplain regulations
Flood Damage Prevention Ordinance

• Exceeds FEMA’s minimum standards

• No-Rise Floodplain
  • No Increase in Water Surface Elevation
  • Account for loss of Storage Capacity
  • New standards for Fill Placement in Special Flood Hazard Areas

• Added Freeboard and Buffers for New Development
  • Finished Floor Elevations 2 feet above BFE
  • New “Buffer” Zone extends beyond the floodplain (BFE + 2 feet)

• Adopted Flood Model
  • Uses FEMA Advisory Flood Model to establish BFEs to account for cumulative changes from multiple developments in progress simultaneously

• Requires Construction Staging within the Floodplain
Capital Improvement Plan

- Adopted by council on Sept, 2017
- $89 M of storm drainage improvements
- $47 M increase from previous CIP
- $24 M in CDGB-DR projects
- $.5 M in additional water quality improvements
- $3.5 M in additional studies/land purchase
RESULTS

• Capital improvement plan
• Models for additional analysis and improvement/development planning
• Regulatory tools
• Partnerships to leverage dollars and resources
• Disaster preparedness and recovery

A RIVER RUNS THROUGH US
Moving Forward

City Council Strategic Initiative – Stormwater

• Create a community resilient to regional and localized flooding events and improve storm water quality.

• Create a sustainable stormwater utility that effectively and equitably funds stormwater improvements and leverages funding through alternative sources.

• Develop regional partnerships to maximize solutions for both current and future flood resiliency.
AGENDA CAPTION:
Consider approval, by motion, of the following meeting Minutes:
A) March 20, 2018 - Work Session Meeting Minutes
B) March 26, 2018 - Code SMTX Special Meeting Minutes
C) April 3, 2018 - Work Session Meeting Minutes
D) April 17, 2018 - Work Session Meeting Minutes
E) April 17, 2018 - Regular Meeting Minutes
Meeting date: 5/1/2018

Department: City Clerk

Amount & Source of Funding
Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

Fiscal Note:
Prior Council Action: Approval of Previous Meeting Minutes

City Council Goal: [Please select goal from dropdown menu below]
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from below]
☐ Economic Development Choose an item.
☐ Environment & Resource Protection Choose an item.
☐ Land Use Choose an item.
☐ Neighborhoods & Housing Choose an item.
☐ Parks, Public Spaces & Facilities Choose an item.
☐ Transportation Choose an item.
☒ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Background Information:
The following minutes are attached for review:
A) March 20, 2018 - Work Session Meeting Minutes
B) March 26, 2018 - Code SMTX Special Meeting Minutes
C) April 3, 2018 - Work Session Meeting Minutes
D) April 17, 2018 - Work Session Meeting Minutes
E) April 17, 2018 - Regular Meeting Minutes

Council Committee, Board/Commission Action: Click or tap here to enter text.

Alternatives:

Recommendation: Approve Minutes as attached
I. Call To Order

With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Thomaides at 3:05 p.m. Tuesday, March 20, 2018 in the City Hall Conference Room, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Deputy Mayor Pro Tem Scott Gregson, Council Member Melissa Derrick, Council Member Jane Hughson, Mayor John Thomaides and Council Member Ed Mihalkanin

1. Receive a presentation and discuss recommendations from the Ethics Review Commission, and provide direction to the City Attorney.

Mr. Lumbreras provided a brief introduction to the work session topic and turned it over to Michael Cosentino. Michael Cosentino, City Attorney, introduced the Ethics Review Commission’s presentation regarding the Council’s tasked work related to campaign finance reporting and lobbying. He introduced the Ethics Review Commission Chair, William Desoto who led the presentation. Mr. Desoto explained that they looked at cities like San Antonio and Austin, and smaller cities like Seguin, to see if they had regulations they could use to compare. Mr. Desoto further explained the amount of research that was done on the topics of campaign contributions and lobbying.

Mr. Desoto reviewed the recommended amendments as follows: limit campaign contributions, require lobbyists to register and submit periodic lobbying activity reports, require city officials and employees to report ethics violations, prohibit city officials from voting on contracts with business entities they serve in any capacity, require remedial ethics training for employees or officials found to have violated the ethics ordinance.

Mr. Desoto explained the campaign contribution limits that were being proposed:
- Individual contribution limit: $500 per candidate per election cycle
• Aggregate fund raising limits per election cycle:
  o For mayoral candidates: $2.00 x number of registered city voters on date of last mayoral election [32,682 registered voters on 11/07/2017]
  o For council candidates: $1.00 x number of registered city voters on date of last election for any council place
  o Runoff candidates: $3.00 x number of registered city voters on the date of the last regular municipal election

The following definitions were provided:
Contributions – include monetary, in-kind, and pledged contributions
Election Cycle – begins on January 1st of year following the last election for mayor or a particular council place or on the start of the candidate’s campaign (whichever is later) and ends on October 31st prior to the next election for that position.

Mr. Desoto reviewed the lobbying regulations being proposed.
He began with the following definitions:
Lobbying – oral, written, or electronic communication with a city official, employee, or staff member to influence a municipal decision on behalf of the lobbyist himself, or on behalf of another person or entity

Includes: attempts to adopt or defeat adoption of an ordinance or resolution, to gain the award of a contract or approval of a land use/land development application.

Excludes: communications regarding homestead property; family matters that are not business related; matters not involving financial benefit or detriment

Lobbyist – any person, including an attorney, who engages in lobbying on behalf of his/her principal, employer, or the owner of a business. Both the lobbyist and the principal would be subject to proposed registration and reporting requirements.

Registration – required; failure to register can delay city’s award of contract or land use decision until registration occurs
Activity Reports:
• Required to be filed for each two month period
• Include the name of the client, list of issues, matters or decisions
• Names of city officials or employees contacted
• Dollar amount of each gift, benefit or expenditure conferred on a city official in excess of $50 or in a cumulative amount greater than $200 per reporting period
• Setting annual limit of $500 on meals or gifts to a city official

Violations and Enforcement:
• Complaints regarding lobbying violations would be heard by the ERC
• Repeated violations – three violations within a five year period – results in suspension for one year could also result in municipal court prosecution

Mr. Desoto presented the Ethics Review Commissions’ other proposed amendments:
Mandatory Reporting of Ethics Violations:
Amend Section 2.444 of the ethics ordinance to require city officials and employees who have knowledge of a violation of the code of ethics or state conflict of interest law to report the violation to the ERC
Voting on Certain Contracts Prohibited:
Amend Section 2.423 to prohibit a city official from voting on a contract with the city for any business entity that the official serves in any capacity
Remedial Ethics Training:
Amend Section 2.444 to include, as a sanction for violation of the ethics ordinance, a requirement that the official or employee attend remedial ethics training including any updates to the ordinance

Council held discussion regarding when someone would have to recuse oneself if they received a donation from a developer.

Council held discussion about how a “Whistle Blower” would be protected under the changes proposed to Section 2.444. Mr. Cosentino explained that there is not whistle blower protection stated within the ordinance. He further explained that when an Ethics complaint is filed that while the Ethics Review Commission reviews it in Executive Session the complaint is not anonymous, and the subject of the complaint receives a copy of the complaint. He stated that that is a requirement of our Code.

City Council provided consensus to have that protection within the ordinance. Mr. Cosentino explained that if someone did not report they would be in violation themselves as the language is currently proposed. However, the City Council did not provided consensus to move forward with the addition of the Mandatory Reporting of Ethics violations.

Additional discussion was held regarding the Mandatory Reporting of Ethics Violations. Mr. Lumbreras provided insight about his concerns with this amendment. He wanted to make sure that he and the Council are together in terms of what the city structure needs to be. He wants there to be a clear line
between what happens within the organization and what happens outside the organization in regards to lobbying or other types of issues. Mr. Lumbreras would like to take an inventory of all the policies that we have in place already and provide that to the Council.

Discussion was held regarding campaign contribution limits. Council consensus was to lower the dollar amount, but did not provide a number at this time.

Discussion was held regarding police and fire organizations donating to a candidate and that candidate later voting on meet and confer agreements later. Mr. Cosentino stated that they could abstain if they wished to, but that it was not necessary. Discussion was held regarding the inclusion of a quid pro quo clause Discussion regarding the lobbying regulations.

Council held discussion regarding the lobbying regulations recommendation needing additional work in relation to the intent of individuals contacting council members. No direction was provided. The City Attorney will send the Zimmerman Case information to the Council.

EXECUTIVE SESSION

2. Executive Session in accordance with § 551.074 - Personnel Matters: Discuss and review Appointee Evaluation Goals for the City Manager, City Attorney, and City Clerk.

A motion was made by Council Member Hughson, seconded by Deputy Mayor Pro Tem Gregson, to enter into Closed Session at 5:00 p.m.. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

III. Adjournment.

The City Council adjourned into Open Session at 5:50 p.m.

Mayor Thomaides then adjourned the Work Session meeting of the San Marcos City Council at 5:50 p.m.

Jamie Lee Case, City Clerk  John Thomaides, Mayor
630 East Hopkins - Code SMTX Special Meeting

I. Call To Order

With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Pro Tem Prewitt at 5:31 p.m. Monday, March 26, 2018 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Mayor Thomaides arrived at 6:28 p.m.

Present: 6 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Council Member Melissa Derrick, Council Member Jane Hughson, Mayor John Thomaides and Council Member Ed Mihalkanin

Absent: 1 - Deputy Mayor Pro Tem Scott Gregson

1. Discuss and consider amendments to the proposed San Marcos Development Code (Code SMTX), and provide direction to Staff.

Abigail Gillfillan, City Planner, provided an update on how the topics will be grouped for presentation this evening. Council began discussion and amendments.

A motion was made by Mayor Pro Tem Prewitt, seconded by Council Member Derrick, to approve the proposed Amendment #12, (see Exhibit B attached to these minutes) by replacing the Comprehensive Plan/District Transaction Table on page 4:3 and including a new chart identifying further criteria and direction concerning where neighborhood districts are most appropriate and where and how additional scrutiny should be applied within existing neighborhoods and including several amendments to the main motion as detailed below. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 0

Absent: 2 - Deputy Mayor Pro Tem Gregson and Mayor Thomaides
A motion was made by Council Member Hughson, seconded by Council Member Gonzales, to amend by including the following language in Chapter 4, Article 4: An adopted small area plan or neighborhood character study for the area surrounding a subject property supersedes the analysis in Table 4.5 and the single family preservation buffer in this Section 4.1.2.5. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 0

Absent: 2 - Deputy Mayor Pro Tem Gregson and Mayor Thomaides

A motion was made by Council Member Hughson, seconded by Council Member Derrick, to amend the chart (as shown on page 2 of Exhibit A) by replacing the word "Preferred" with "Consider". The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson

Abstain: 1 - Mayor Thomaides

A motion was made by Council Member Hughson, seconded by Council Member Derrick, to amend Chapter 4, Article 1 by including the title of the Comprehensive Plan / District Translation, and allow staff to move the table to the zoning page and include a reference to section 4.1.2.4-4.1.2.5 on the Comprehensive Plan / District Translation Table on page 4:3. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to approve the staff suggested edits (Exhibit A attached to these minutes) starting with 4.1.1.6 (excluding the color coded chart) through 4.1.2.5. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson
A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to amend the Staff suggested edits (Exhibit A) on the Preferred Scenario Map by striking the language “Land Preservation Area” and changing it back to “Low Intensity Area”. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 1 - Mayor Thomaides

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Mayor Pro Tem Prewitt, to amend the Staff suggested edits (Exhibit A) by ensuring the word “small scale” is inserted before multi-family in the District Intent statement for ND 3.5 District on page 4:6. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Derrick, seconded by Council Member Mihalkanin, to approve the addition of a transitional buffer as follows: A property zoned Single Family may not request a rezoning to ND3, ND3.5, ND4, or ND4M unless located on a major arterial when surrounded by 50% or more properties zoned single family as of May 1, 2018. The motion carried by the following vote:

For: 4 - Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 2 - Mayor Pro Tem Prewitt and Mayor Thomaides

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Mihalkanin, seconded by Council Member Derrick, to amend the previous motion by striking “unless located on a major arterial” from the description of the transitional buffer. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 1 - Mayor Thomaides

Absent: 1 - Deputy Mayor Pro Tem Gregson
A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to approve the addition of a statement that a completed small area plan should supersede any requirements of the single family preservation buffer. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin
Against: 1 - Mayor Thomaides
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to approve that the single family preservation buffer be included as an exhibit for any single family zoning requests that are not preferred (NP) in the Comprehensive Plan / District Translation Table. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin
Against: 0
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Mayor Thomaides, seconded by Mayor Pro Tem Prewitt, to approve the requirement of 6 affirmative votes of the Planning and Zoning Commission to recommend a zoning change request and 5 affirmative votes of the City Council to approve the same request are required when the single family preservation buffer results in 50% or more single family zoning. The motion carried by the following vote:

For: 4 - Mayor Pro Tem Prewitt, Council Member Derrick, Council Member Hughson and Mayor Thomaides
Against: 2 - Council Member Gonzales and Council Member Mihalkanin
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Council Member Derrick, to amend the units per acre on the Comparative Code Matrix in ND 2 from 10 max to 8.5 max. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin
Against: 1 - Mayor Thomaides
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to approve the renaming of Neighborhood Districts to Neighborhood Density Districts. The motion carried by the following vote:
A motion was made by Council Member Mihalkanin, seconded by Mayor Thomaides, to approve all development applications that require a Planning and Zoning recommendation to Council must be acted upon within 24 months or they expire. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin

Against: 1 - Mayor Thomaides

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Mayor Pro Tem Prewitt, to approve the requirement to send posted notice at least 17 days in advance of the Public Hearing for a conditional use permit allowing for the on-premise consumptoin of alcohol. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Mayor Pro Tem Prewitt, to approve the requirement of posting notice at least 17 days in advance of the Public Hearing for a conditional use permit allowing Purpose Built Student Housing. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Mayor Pro Tem Prewitt, to amend Section 2.3.2.1 General Notice Requirements E., by increasing the size of notification signs to 24"x24" and text be a minimum of 6 inches tall. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Absent: 1 - Deputy Mayor Pro Tem Gregson
A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to amend the notification and procedures for City initiated Comprehensive Plan Amendment and PSA City initiated Zoning Map amendments by requiring Neighborhood Presentation meetings. The motion carried by the following vote:

For: 4 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Hughson and Council Member Mihalkanin
Against: 1 - Mayor Thomaides
Absent: 2 - Deputy Mayor Pro Tem Gregson and Council Member Derrick

A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to amend the Land Use Matrix for where and how accessory dwelling units are permitted and to change “Permitted” to “Limited” for FD, SF-R and CD-3. The motion carried by the following vote:

For: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Council Member Mihalkanin
Against: 1 - Mayor Thomaides
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, amending Section 5.1.3.1 C 2 a. which currently states “An accessory dwelling unit is considered an independent unit for the purposes of occupancy restrictions.” Adjust the occupancy restrictions to no more than 2 unrelated persons in the main house and no more than 1 additional unrelated in the ADU. The motion died due to lack of majority by the following vote:

For: 3 - Council Member Gonzales, Council Member Hughson and Council Member Mihalkanin
Against: 3 - Mayor Pro Tem Prewitt, Council Member Derrick and Mayor Thomaides
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Council Member Hughson, seconded by Council Member Gonzales, to approve flags signs as temporary signs. The motion failed by the following vote:

For: 1 - Council Member Hughson
Against: 5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Mayor Thomaides and Council Member Mihalkanin
Absent: 1 - Deputy Mayor Pro Tem Gregson

A motion was made by Mayor Thomaides, seconded by Council Member Derrick, to approve the combination of ND2 and ND3 and rename it ND 2.5 with the specifications of ND3 except on the comparative/density table to ND2
in low density where it would be considered. The motion failed by the following vote:

For:  3 - Council Member Gonzales, Council Member Derrick and Mayor Thomaides
Against:  3 - Mayor Pro Tem Prewitt, Council Member Hughson and Council Member Mihalkanin
Absent:  1 - Deputy Mayor Pro Tem Gregson

A motion was made by Mayor Pro Tem Prewitt, seconded by Mayor Thomaides, to approve the removal of ND2. The motion carried by the following vote:

For:  5 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson and Mayor Thomaides
Against:  1 - Council Member Mihalkanin
Absent:  1 - Deputy Mayor Pro Tem Gregson

A motion was made by Mayor Thomaides, seconded by Council Member Derrick, to approve that City Council will refrain from making additional amendments to the Code, unless requested by staff. The motion carried by the following vote:

For:  6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin
Against:  0
Absent:  1 - Deputy Mayor Pro Tem Gregson

III. Adjournment.

Mayor Thomaides adjourned the Special Meeting of the San Marcos City Council at 10:50 p.m.

Jamie Lee Case, TRMC, City Clerk          John Thomaides, Mayor

Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov
Section 4.1.1.6  Comprehensive Plan Preferred Scenario

A. Comprehensive Plan Preferred Scenario Designations. To direct the intensity of, and development within, the various areas of the City, the Comprehensive Plan Preferred Scenario Map establishes the following Preferred Scenario areas:

1. Open Space/Agricultural Zone. An area which is not developed and which is generally suitable for very limited residential or agricultural uses.

2. Low Intensity Land Preservation Area. Low intensity areas are varied and diverse with respect to environmental sensitivity and development suitability of the land. They are generally made up of larger undeveloped tracts of land where the preservation of sensitive environmental areas, flood hazard areas and agricultural lands should be considered as part of any development proposal. Development in these areas should be guided by the Land Use Suitability Map of the Comprehensive Plan.

3. Existing Neighborhood Area. Established, primarily residential areas intended to maintain their existing character and to follow development and redevelopment patterns that are compatible with the existing character.

4. Medium or High Intensity Zone. An area of change intended to accommodate the City’s future growth and expansion where people can meet their daily needs within a short walk, bike, transit trip or drive.

5. Employment Center. An area intended to accommodate economic growth and the recruitment of major employers.

6. Corridors. An area along a major transportation corridor where development should be consistent with and complement the preferred scenario designation and the corridor type from the Transportation Master Plan.

B. Comprehensive Plan / District Translation Table. Zoning map amendments shall be consistent with the intent and character of the preferred scenario designations on the Preferred Scenario Map.

1. Preferred (P) Considered (C). Where a zoning map amendment is considered on the table below, the amendment will be considered based on the following:
   a. Preferred type of development based on the Comprehensive Plan and should be considered based on the
   b. Zoning criteria in Section 2.5.1.4 and the
   c. The district intent statements under Division 4 of this Chapter 4 Article 1.

2. Preferred*(P) Considered*(C*). Where a property owner requested zoning map amendment that is 1 acre or greater is requested in the Existing Neighborhood District is requested the amendment will be considered based on the following:
   a. Further scrutiny may be required to determine consistency with the compatibility requirements in Sec. Section 4.1.2.2.
   b. Initial authorization by City Council under Section 2.5.1.1 is required.
   c. Compatibility of the proposed uses and densities based on the policy established in Section 4.1.2.2.
   d. The district intent statements under Division 4 of this Chapter 4 Article 1.
3. Not Preferred (NP). Where a zoning map amendment is Not Preferred (NP) on the table below, further scrutiny is required to determine consistency with the Comprehensive Plan based on the criteria in Section 2.5.1.4 and the district intent under Division 4 of this Chapter 4 Article 1.

4. Not Allowed (--). Where a zoning map amendment is not allowed on the table below, no zoning map amendment may be requested without an accompanying request for an amendment to the Preferred Scenario Map under Section 2.4.2.1.

<table>
<thead>
<tr>
<th>District Classification</th>
<th>Open Space/Agricultural</th>
<th>Low Intensity Land Preservation</th>
<th>Existing Neighborhood</th>
<th>Medium or High Intensity Zone</th>
<th>Employmen t Center</th>
<th>Corridor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional Residential</td>
<td>NP</td>
<td>NP</td>
<td>PC</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Neighborhood Districts</td>
<td>NP</td>
<td>NP</td>
<td>PC*</td>
<td>NP</td>
<td>NP</td>
<td>PC</td>
</tr>
<tr>
<td>Character Districts</td>
<td>NP</td>
<td>PNP</td>
<td>--</td>
<td>PC</td>
<td>NP</td>
<td>PC</td>
</tr>
<tr>
<td>Special Districts</td>
<td>--</td>
<td>NP</td>
<td>NP</td>
<td>NP</td>
<td>PC</td>
<td>PC</td>
</tr>
</tbody>
</table>

Legend -- = Not Allowed
NP = Not Preferred
P = Preferred
C = Considered

* Initial Authorization required when request is 1 acre or greater.** An Existing Neighborhood Regulating Plan is required for property owner requested zoning changes to a Neighborhood District.

DIVISION 2: DISTRICTS ESTABLISHED

Section 4.1.2.1 District Classifications

A. Zoning districts are categorized into four different classifications that relate to the type of development that is anticipated by the Comprehensive Plan in each area designated on the Comprehensive Plan Map.

B. The zoning district classifications include:

1. Conventional residential zoning districts;
2. Neighborhood zoning districts;
3. Character zoning districts; and
4. Special zoning districts.

Section 4.1.2.2 Compatibility of Uses and Density

A. It is the policy of the City Council, through exercising its zoning authority, to:

1. Gradually transition high intensity uses and densities;
2. Help prevent the impacts of high density uses on low density areas;
3. Limit inconsistent uses or densities being located in close proximity;
4. Encourage more opportunities for home ownership; and
5. Ensure a mix of zoning districts and building types consistent with properties in close proximity to the request.

Section 4.1.2.3 Division of the City into Districts

A. The City is hereby divided into zones, or districts, and the boundaries of zones and districts set out herein are delineated upon the Zoning District Map of the City, which may also be cited as the “Zoning Map”, which is adopted as a part of this Development Code as fully as if the same were set forth herein in detail. The terms “zone” “zoning” “zoning district” can be used interchangeably.

B. The following zoning districts are established and applied to property as set forth on the Official Zoning Map. District intent statements are used in addition to the Comprehensive Plan to analyze the appropriateness of different zoning requests.

Section 4.1.2.43 Conventional Residential Zoning Districts

A. Conventional residential zoning districts are intended for low-density single family residential development.

B. Conventional residential zoning districts should be applied in existing neighborhood areas that are dominated by single family residential zoning.

<table>
<thead>
<tr>
<th>District Name</th>
<th>District Intent</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>FD Future Development District</td>
<td>The FD district is intended to serve as a temporary zoning district for properties that shall develop in the future, but have been newly annexed and/or are not yet ready to be developed. Characterized by primarily agricultural uses with woodlands, wetlands and scattered buildings.</td>
<td>4.4.1.1</td>
</tr>
<tr>
<td>SF-R Single Family Rural</td>
<td>The SF-R Rural Residential District is intended for the development of single family uses in larger lot subdivision in a more rural setting.</td>
<td>4.4.1.2</td>
</tr>
<tr>
<td>SF-6 Single Family District - 6</td>
<td>The SF-6 district is intended to accommodate single family detached houses with a minimum lot size of 6,000 square feet. Characterized by smaller landscaped areas with moderate setbacks and more frequent pedestrian use. Uses that would substantially interfere with the residential nature of the district are not allowed.</td>
<td>4.4.1.3</td>
</tr>
<tr>
<td>SF-4.5 Single Family District - 4.5</td>
<td>The SF-4.5 district is intended to accommodate single family detached houses with a minimum lot size of 4,500 square feet. Characterized by smaller landscaped areas with moderate setbacks and more frequent pedestrian use.</td>
<td></td>
</tr>
</tbody>
</table>
Section 4.1.2.54 Neighborhood Districts

A. Neighborhood districts are intended for infill or re-development in medium or high density residential or commercial areas within existing neighborhood areas on the preferred scenario map.

B. Neighborhood Districts should be applied to preserve and enhance the character of existing neighborhood areas while providing options for diverse and affordable housing or limited neighborhood oriented commercial uses.

Section 4.1.2.5 Compatibility of Uses and Density

A. Policy. It is the policy of the City Council, through exercising its zoning authority, to:

1. Help prevent the impacts of high density uses on low density areas;
2. Limit incremental changes within existing neighborhoods unless directed by a small area plan;
3. Encourage more opportunities for home ownership; and
4. Ensure a diversity of housing to serve citizens with varying needs and interests.

B. Development Increments. Each Neighborhood District represents an increment of development. The relationship between each increment of development and existing Conventional Residential, Special, and Legacy Districts is described in the table below:

<table>
<thead>
<tr>
<th>Increment of Development</th>
<th>Related zoning districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>ND2</td>
<td>FD, AR, SF-R, SF-11, MR, SF-6, SF-4.5, DR, P</td>
</tr>
<tr>
<td>ND3</td>
<td>D, PH-ZL, P</td>
</tr>
<tr>
<td>ND3.5</td>
<td>TH, MF-12, P</td>
</tr>
<tr>
<td>ND4</td>
<td>MU, MF-18, MF-24, P</td>
</tr>
<tr>
<td>ND4M</td>
<td>OP, NC, CC, GC, HC, LI, HI, MH</td>
</tr>
</tbody>
</table>

1. A development increment is determined based on the existing use and zoning of the subject property and the character of the surrounding land use pattern and in accordance with the Single Family Preservation Buffer in Section .......
| ND-2 | Neighborhood District - 2 | The ND-2 district is intended to accommodate single-family detached houses and encourage opportunities for home ownership. ND-2 should only be applied in areas where the land use pattern is single-family or two-family with a mixture in lot sizes and in accordance with Section 4.1.2.5. Uses that would interfere with the residential nature of the district are not allowed. |
| ND-3 | Neighborhood District - 3 | The ND-3 district is intended to accommodate single-family detached houses and encourage opportunities for home ownership. Additional building types are allowed that accommodate affordable alternatives for home ownership. ND-3 should only be applied in areas where the land use pattern is single-family or two-family with some mixture in housing types, other than detached single family or two-family and in accordance with Section 4.1.2.5. Uses that would interfere with the residential nature of the district are not allowed. |
| ND-3.5 | Neighborhood District - 3.5 | The ND-3.5 district is primarily intended for residential living. Additional building types are allowed that provide opportunities for affordable and diverse housing types. ND-3.5 should only be applied in areas where the land use pattern is mixed with various including detached and attached single-family, townhouses, or small-scale multi-family and in accordance with Section 4.1.2.5. Uses that would substantially interfere with the residential nature of the district are not allowed. |
| ND-4 | Neighborhood District - 4 | The ND-4 district is primarily intended for residential living. ND-4 should only be applied in areas where the land use pattern is a mixture of housing types that includes predominantly multi-family or townhouse with some commercial. This district can accommodate small scale multi-family living that fits in with a single-family character and can include some limited neighborhood oriented commercial on corners only. |
| ND-4M | Neighborhood District - 4 Main Street | The ND-4M district is intended to serve as a pedestrian-oriented mixed-use corridor located within close proximity to primarily residential areas. ND-4M should only be applied along predominantly commercial corridors within existing neighborhood areas on the Preferred Scenario Map. The ND-4M district creates pedestrian friendly corridors and gateways to predominantly residential areas and provides for appropriate buffers and transitions to adjacent residential land uses. |
## EXHIBIT B - CODE SMTX AMENDMENTS

### Legend

**Impact:** The Impact that an amendment has on the intent of the code. A Substantive amendment should include analysis of unintended consequences.

**Drafting:** Drafting refers to the complexity of drafting an amendment into the code. Amendments that are complex may need additional time to be included in the Code.

**Staff Analysis:** Response and analysis is included where requested by Council Members during the meeting on Feb. 20.

### Amendments Highlighted in Orange
- Removing Cottage Courts from the ND3 Zoning District makes this district identical to the proposed ND2 District. Staff recommends combining the districts and naming them ND2.5 for incorporation in the final draft. Seeking direction during the March 6 Work Session.

### Amendments Highlighted in Light Purple
- Amendments highlighted in light purple are classified as minor and simple but have not been acted on. If no direction is provided during the March 6 Work Session, staff will draft these amendments as blue lines and number them according to the amendment number for action during the March 20 meeting.

### Amendments Highlighted in Dark Purple
- Amendments highlighted in dark purple need additional time prior to incorporation in the final draft based on either the substantive nature of the comment or the complexity. Staff has provided analysis on these amendments identifying the potential unintended consequences or conflicts with other aspects of the code as currently drafted. We will be requesting direction during the March 6 work session on whether these amendments will be further pursued now or left for monitoring, assessment, and possible consideration during the annual code update.

### Amendments Highlighted in Green
- Amendments highlighted in green will be incorporated in the final draft.

### APPROVED AMENDMENTS

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>IMPACT</th>
<th>DRAFTING</th>
<th>ACTION</th>
<th>PROPOSED AMENDMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1 Work Session</td>
<td>SUBSTANTIVE</td>
<td>COMPLEX</td>
<td>Approved 5-0-2</td>
<td>Regulating Plan - A regulating plan is required for all property owner requested zoning changes to ND3, ND3.5, ND4, or ND4M.</td>
</tr>
<tr>
<td>#2 Work Session</td>
<td>SUBSTANTIVE</td>
<td>SIMPLE</td>
<td>Approved 5-0-2</td>
<td>Single Family Protection Buffer - Single Family Zoning Districts may not request a rezoning to ND3.5, ND4, or ND4M unless located on a major arterial when surrounded by more than 50% Single Family Zoning Districts.</td>
</tr>
<tr>
<td>#3 Work Session</td>
<td>SUBSTANTIVE</td>
<td>COMPLEX</td>
<td>Approved 5-0-2</td>
<td>Neighborhood District 2 - An additional neighborhood zoning district restricted to the following building types: Accessory Dwelling, House, Cottage, and Attached House.</td>
</tr>
<tr>
<td>#4 Work Session</td>
<td>SUBSTANTIVE</td>
<td>SIMPLE</td>
<td>Approved 5-0-2</td>
<td>Modify the Attached Home Building Type - Rename the building type to zero lot line home and allow detached or attached single family homes where one side setback is 0 feet.</td>
</tr>
<tr>
<td>#5 PREWITT</td>
<td>MINOR</td>
<td>SIMPLE</td>
<td>APPROVED 7-0</td>
<td>Rename Home Share Rentals to Short Term Rentals</td>
</tr>
<tr>
<td>#6 PREWITT</td>
<td>MINOR</td>
<td>SIMPLE</td>
<td>APPROVED 7-0</td>
<td>Create an exception from required long term rental registration for a unit where at least one of the occupants is an owner of record unless there are violations</td>
</tr>
<tr>
<td>MEMBER</td>
<td>IMPACT</td>
<td>DRAFTING</td>
<td>ACTION</td>
<td>PROPOSED AMENDMENT</td>
</tr>
<tr>
<td>----------</td>
<td>----------</td>
<td>----------</td>
<td>-------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>#7 PREWITT</td>
<td>MINOR</td>
<td>SIMPLE</td>
<td>APPROVED 7 - 0</td>
<td>Include conservation land, green space and hike and bike trails for fee in lieu.</td>
</tr>
</tbody>
</table>
| #8 PREWITT | MINOR    | SIMPLE   | APPROVED 7 - 0 | A. on-street public parking that is located directly adjacent to the property may be counted towards the minimum requirements in section 7.1.2.1 or section 7.1.2.2
1. There should be a minimum width of street to be taken into consideration,
2. There needs to be a discussion of how to treat residential parking permits in areas that may use this parking minimum requirement
3. If the city is to allow street parking which the city is to maintain, then there should be a fee in lieu of for sidewalk construction so our streets are more walkable.
4. If the street has parking on both sides without a minimum, then how will bikes be accommodated on certain streets...take into account the transportation master plan?
5. TOD exemption (at a later date) |
| #9 MIHALKANIN | MINOR    | SIMPLE   | APPROVED 7 - 0 | Add Attached Homes as an allowed Housing Type in ND3.5                           |
| #10 MIHALKANIN | SUBSTANTIVE | COMPLEX | APPROVED 6 - 1 | Remove Cottage Courts as an allowed Housing Type in ND3                            |

Staff Analysis: The Cottage Court Housing Type was designed for existing large and irregularly shaped single family lots as a tool to provide additional opportunities for infill single family development. Without this building type as an option in the ND3 district a property owner wishing to build multiple single family homes on a large irregularly shaped lot will need to apply for a much more intensive zoning district that would not necessarily be appropriate in an area characterized by single family development or they would need to build roads and utilities that may not be cost effective for a few single family homes.

| #11 PREWITT | MINOR    | SIMPLE   | APPROVED 7 - 0 | Lodging: can there be an exception if the CD5-D has offsite valet parking to fulfill the parking requirements? COSM will have to have metered parking in order for this to be applicable. We may be able to incentivize a hotel DT in one of our historic buildings if the applicant can provide valet parking in alternative location. |
### AMENDMENTS DISCUSSED WITH NO ACTION

<table>
<thead>
<tr>
<th>#12</th>
<th>PREWITT</th>
<th>SUBSTANTIVE</th>
<th>COMPLEX</th>
<th>POSTPONE 7 - 0</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Include a proposed chart and table that identifies where zoning amendments are preferred or not preferred based on the current zoning. Chart attached.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Staff Analysis:** Zoning is a discretionary decision where each request should be reviewed based on its own merits. This chart relies heavily on the existing zoning of that specific lot as the most important indicator and criteria for what should be allowed in the future. Zoning decisions should consider all criteria including the surrounding zoning districts, development trends, environmental considerations, infrastructure, existing development and many more. These are complex decisions that deserve a thorough analysis of all the criteria involved. If this concept is pursued there are a number of technical considerations that have not been accounted for like existing or proposed commercial and industrial zoning. This chart will require thorough analysis in order to ensure there aren’t unintended consequences or opportunities lost. It is important to note that when zoning options for neighborhood districts are unavailable a property owner still has the ability to seek a change to the Comprehensive Plan which may result in a request that may be even more out of character than the original proposal.

Suggested Edit: Section 4.1.2.2 Compatibility of Uses and Density:
1) It is the policy of the City Council, through exercising its zoning authority, to: Gradually transition high intensity uses and densities;
2) Help prevent the impacts of high density uses on low density areas;
3) Limit inconsistent uses or densities being located in close proximity;
4) Encourage more opportunities for home ownership; and
5) Ensure a mix of zoning districts and building types consistent with properties in close proximity to the request.
6) Limit any increase in the density or intensity of development to no more than one increment above the current zoning designation.

<table>
<thead>
<tr>
<th>#13</th>
<th>DERRICK</th>
<th>SUBSTANTIVE</th>
<th>SIMPLE</th>
<th>WITHDRAWN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Single Family Zoning Districts Shall not request a rezoning to ND3, ND3.5, ND4 or ND4M unless located on a major arterial when surrounded by more than 50% single family zoning districts <strong>until Small Area Plans or NCS are completed.</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Staff Analysis:** The cottage court, zero lot line, or attached house products were specifically designed to meet a need for better options for single family development on large, irregular, or narrow lots. These lots may be located in predominantly single family areas. Including ND3 in this list will prohibit a request to any alternative single family housing types. The buffer is a one size fits all tool that is only intended to discourage zoning requests that are significantly out of character with their surroundings. If the intent of this amendment was to prohibit cottage courts then it is not needed based on other amendments made.

Small area plans may not be employed in areas that are predominantly single family which means that this prohibition would never go away in many parts of the City.
<table>
<thead>
<tr>
<th>MEMBER</th>
<th>IMPACT</th>
<th>DRAFTING</th>
<th>ACTION</th>
<th>PROPOSED AMENDMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>#14 HUGHSON</td>
<td>SUBSTANTIVE</td>
<td>SIMPLE</td>
<td>WITHDRAWN</td>
<td>Strike &quot;unless located on a major arterial&quot; from the Single Family Buffer</td>
</tr>
</tbody>
</table>

Staff Analysis:
- There are 1,018 Single Family Lots located on Thoroughfare Plan streets in the Transportation Master Plan. There are a total of 6,468 single family zoned properties in the City.
- The buffer is not designed as a tool for decision making because it can’t take into account any specific circumstances that may exist. Being located on a major arterial as a single family zoning district is a specific circumstance that warrants individual consideration during the zoning process. **Zoning decisions should consider:**
  - surrounding zoning districts,
  - development trends,
  - environmental considerations,
  - infrastructure,
  - existing development and more.
- Allowing the consideration of a zoning request along a thoroughfare plan road does not mean that single family isn't appropriate or that a zoning change request should be approved. Some of our most valuable single family properties and historic districts are located on major roads.
<table>
<thead>
<tr>
<th>MEMBER</th>
<th>IMPACT</th>
<th>DRAFTING</th>
<th>ACTION</th>
<th>PROPOSED AMENDMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>#15 PREWITT</td>
<td>SUBSTANTIVE</td>
<td>SIMPLE</td>
<td>WITHDRAWN</td>
<td>Purpose built student housing: CD-4 / CD-5 should be increased to 1.05 parking spaces per bedroom with the same reductions allowed through fee-in-lieu in the downtown area.</td>
</tr>
</tbody>
</table>

**Staff Analysis:** Two things are required in order for a fee-in-lieu to be effective:
- **It must be used:** The CD4 and CD5 zoning are intended to create a walkable environment. It is challenging to create that environment if there is little incentive to give up parking.
- **City must collect enough to make up for fewer parking spaces on-site:** Collection and distribution of fees-in-lieu should be focused on specific geographic areas where they can be more effective at reducing the number of cars than if that same amount of money was invested in on-site parking. Staff’s concern is that Fee-in-lieu in these areas will not generate enough money to offset the negative impacts to walkability from high parking requirements or to reduce the number of cars in the area.

| #16 HUGHSON | SUBSTANTIVE | COMPLEX | PROPOSED | Restore SF-ll as an available zoning district. We have SF-4.5, SF-6, SF-R and SF-11 falls in the middle between SF-R and SF-6. I know that staff has said we do not have any SF-11 zoning at this time. Although it may be unlikely that a builder will want to create lots of this size, I don’t think we should take that option away from them. We should let them be able to ask for this district. Amend: Amend Section 4.1.2.8 Legacy Districts by REMOVING SF-11 from that list and making all other changes |

**Staff Analysis:** Eliminating this district does not preclude someone from creating lots of this size. SF-6 has a minimum 6,000 square foot lot. The primary reason that this zoning district was not carried forward is that an 11,000 square foot lot is very land intensive since it is typically too small to be left in a rural state. These lots lead to large amounts of lawn that are not sustainable.

| #17 PREWITT | MINOR | SIMPLE | QUESTION / COMMENT | Ensure that PSA requests for commercial and employment uses are not limited to 2 times per year. |

**Staff Analysis:**

**Section 2.4.2.2 Application Requirements**

A. An application for a Comprehensive Plan map amendment shall be submitted in accordance with the universal application procedures in Section 2.3.1.1.

B. Consideration of Preferred Scenario Map amendments that meet either of the conditions below shall be limited to twice per year as determined by the Responsible Official.

1. Any modification to the Existing Neighborhood designation on the Preferred Scenario Map.

2. Any request for a medium or high intensity zone designation.
<table>
<thead>
<tr>
<th>MEMBER</th>
<th>IMPACT</th>
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<th>ACTION</th>
<th>PROPOSED AMENDMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIHALKANIN</td>
<td>MINOR</td>
<td>SIMPLE</td>
<td>WITHDRAWN</td>
<td>Development Applications that require a Planning and Zoning recommendation to Council must be acted on within one year or they expire.</td>
</tr>
</tbody>
</table>

Staff Analysis: Feedback from the development community about expiration dates throughout this process includes:

- 26 comments related to concerns around expiration dates and permit extensions out of the 66 comments received from the development community relating to the development process in general.
- The comments expressed concern about the length of expiration dates for larger projects.
- The comments expressed concern about a limit on the number of times that a permit can be extended.
- The comments expressed concern about the 6 month waiting period for cases that are denied by the City Council.

<table>
<thead>
<tr>
<th>HUGHSON</th>
<th>MINOR</th>
<th>SIMPLE</th>
<th>PROPOSED</th>
<th>Require a response in the code from police and fire for zoning changes</th>
</tr>
</thead>
</table>

If approved this amendment should be located in Sec. 2.5.1.3: Approval Process for Zoning Changes

<table>
<thead>
<tr>
<th>HUGHSON</th>
<th>MINOR</th>
<th>SIMPLE</th>
<th>PROPOSED</th>
<th>Rental Registration - Advise of occupancy restrictions I am concerned that someone who is not familiar with our community and our codes may not pick up on the fact that we HAVE occupancy restrictions and there are requirements in some cases just from this one sentence. Amend: Replace “as stated” with “requirements may be found in Chapter 5, Division 4: RESIDENTIAL USES” to read (requirements may be found in Chapter 5, Division 4: RESIDENTIAL USES in the Land Development Code)</th>
</tr>
</thead>
</table>

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<thead>
<tr>
<th>HUGHSON</th>
<th>MINOR</th>
<th>SIMPLE</th>
<th>PROPOSED</th>
<th>Rental Registration - Remove exception that ACT properties do not have to comply with rental registration. I do not see that being a member of ACT replaces rental registration in any way. If we don’t have all of the student housing complexes registered with the City, I don’t see how we will compile accurate statistics on anything.</th>
</tr>
</thead>
</table>

Staff Analysis: The original intent of this provision was to provide a voluntary program as an incentive to self monitor.

<table>
<thead>
<tr>
<th>HUGHSON</th>
<th>MINOR</th>
<th>SIMPLE</th>
<th>PROPOSED</th>
<th>Include parenthesis behind &quot;not allowed&quot; to say that a PSA is required in the Table on Pg. 4:3</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>PREWITT</th>
<th>MINOR</th>
<th>SIMPLE</th>
<th>QUESTION / COMMENT</th>
<th>Regulating Plans should be an easy process that is clearly defined</th>
</tr>
</thead>
</table>

Staff Analysis: The Application Requirements for a regulating plan is proposed to include these items as applicable to the request:

1) Location of proposed and existing zoning districts; 2) The type, number, and location of all proposed and existing Building Types; 3) Required or Proposed Transitional protective yards; 4) Required or proposed residential infill compatibility standards; 5) Proposed and existing streets and streetscapes; 6) Location of parking; 7) Location of proposed or existing parkland.

For a small lot where no subdivision is proposed many of these application requirements will not be applicable.
Please advise if this is the same situation that happened at The Woods apartments, during construction, that the contracted engineers found caused some flooding as the dirt berms acted as a dam, causing floodwater to back up into the neighborhood. I thought we had already changed our codes to not allow this to happen again. If so, eight feet is too high. Stating must be removed “as soon as possible” doesn’t solve the potential problem either. Please ask Engineering to advise on possible amendment to address this situation. If this is not the same as The Woods situation, please advise.

The proposed changes to Chapter 14 regarding spoils piles keep the 3 main points which were adopted in Ord. 2015-21 and provide additional teeth for enforcement.

1) Piles shall not exceed 8 ft. in height. Currently this only applies if the piles are within 50’ of the ROW. The proposed amendment applies the 8 ft. height to the entirety of a property

2) Volume & Footprint. Currently it says we maintain discretion. The proposed amendment states that they must be minimized – and further states that they must be removed before final inspections are approved.

3) Seeding / TCEQ requirements. Currently there is no timeframe on the seeding of piles. The proposed amendment states that if a pile is to remain for 14 days it must be seeded.

Occupancy Use Restrictions included in the zoning district summary tables. Amend: Occupancy Use Restrictions be added to Section 4.4.1.2 SF-R, Section 4.4.1.3 SF-6, Section 4.4.1.4 SF-4.5, Section 4.4.2.1 ND-3, and Section 4.4.2.2 ND 3.5 by including “Occupancy use restrictions apply” and include the corresponding section numbers from Chapter 5. If the amendment to bring back SF-11 passes, then we will need to add SF-11 also.

Sec. 2.111 Neighborhood Commission Map: A map depicting the location of each secto may be viewed at the office of the city clerk and on the City website Neighborhood Commission page.

Correct Typo in Technical Manual from CD4D to CD5D
At our last regular CC meeting, I withdrew my preservation buffer amendment, and both Council Woman Prewitt and I gave direction to staff to take a look at what I was trying to accomplish with my buffer and what she was trying to accomplish with her chart, as I clearly stated what my goals were, and it was apparent from the chart that we were both trying to accomplish a similar outcome. Now whether or not staff agrees with the goal is neither here nor there, but we were only provided with staff analysis on our suggested amendments, and staff analysis for both was negative - we received no suggestions as to how to propose another amendment that could be voted on at our next meeting.

So, I've come up with my own solution and would like to receive staff feedback prior to the meeting on March 6th. I think both the chart and preservation buffer can be used in concert to achieve the intended goal, of directing growth where we as community want to see it.

I believe the chart should be adopted and that this SF preservation buffer be used around the periphery of Small Area Plans to ensure that the domino effect doesn't occur. Once we've determined a small area plan - "area", then 'substantial changes' will occur. Once a substantial change has occurred, properties near that substantial change would no longer be proposing something "new", the door will be wide open for more substantial changes of the same nature and then some - we've seen this happen again and again, and it's of huge concern to those of us who wish to ensure that too much density isn't crammed into the core of our neighborhood where ND's aren't supposed to be. ND's are intended for areas of mixed housing types and/or mixed use, not the core of single family hoods. Once you have a "substantial change" though, the door is wide open for more developments like it to creep into the core, b/c that substantial change has now indeed changed the character of that area and can keep on rolling with nothing in place to stop it - the preservation buffer WILL stop it.

The preservation buffer must limit development requests to what we now call ND2, in order to stop the domino effect into areas that are more than 50% SF. We were promised that this code would allow us to DIRECT development where we wanted it and there will be PLENTY of areas that can request above ND2 once the small area plans are in the works. We should direct growth TO those small areas where we want it and not allow it where it currently isn't desired. Under this scenario, developers can breathe easy knowing they can build their MU and other high density projects w/in the small plan areas, without their proposals erupting into more battles with neighborhoods. These hotly contested zoning requests ARE the reason SMTX is perceived as a city that is hard to develop in. It's not hard to develop here if WE guide the growth as we promised to do. This is a living document that will be reviewed, tweaked and outright changed after year one and will continue to be changed as our city evolves. For now just tell developers where they will get a YES and no neighborhood and CC battle, so they can do what they need to do and the neighbors can stay home w/ their families instead of coming to Citizen Comment with every zoning request for the next year. As for investors who have gambled and are playing the waiting game after purchasing lots in Blanco and Victory gardens, that's a risk they took and they can continue to rent those affordable homes and make money off their investments - and if they can't up-zone right now and thus increase their property value, then we might not see a quick flip on the gentrification front. The preservation buffer protects both wealthy and poor hoods in SMTX.
### Amendment: General Notice Requirements

In the Section 2.1.1.2 table, General Notice Requirements:
- At the intersection of "City Initiated Comprehensive Plan Map Amendment" AND "Neighborhood Presentation" INSERT "PM" (currently blank).
- At the intersection of "City Initiated Comprehensive Plan Map Amendment" AND "Personal Notice" STRIKE "N" and INSERT "Y*".
- At the intersection of "City Initiated Comprehensive Plan Map Amendment" AND "Posted Notice" STRIKE "N" and INSERT "Y*".
- At the intersection of "Comprehensive Plan Map Amendment" AND "Posted Notice" STRIKE "Y" and INSERT "Y*".
- At the intersection of "City Initiated Zoning Map Amendment" AND "Neighborhood Presentation" INSERT "PM" (currently blank).
- At the intersection of "City Initiated Zoning Map Amendment" AND "Posted Notice" STRIKE "N" and INSERT "Y*".
- At the intersection of "Zoning Map Amendment (Rezoning)" AND "Posted Notice" STRIKE "Y" and INSERT "Y*".
- At the intersection of "Establishment of Historic Landmarks and Districts" AND "Posted Notice" STRIKE "N" and INSERT "Y*".
- At the intersection of "Conditional Use Permit" AND "Personal Notice" STRIKE "Y" and INSERT "Y#".
- At the intersection of "Conditional Use Permit" AND "Posted Notice" STRIKE "N" and INSERT "Y#".
- At the intersection of "Conditional Use Permit - Council Approved" AND "Personal Notice" STRIKE "Y" and INSERT "Y#".
- At the intersection of "Conditional Use Permit - Council Approved" AND "Posted Notice" STRIKE "N" and INSERT "Y#".

In the Legend, add Y# - CUP for alcohol use and student housing.

### Staff Analysis: Redline of table will be provided to City Council for discussion.

### Amendment: Remove exemption for neighborhood presentations for city-initiated Comp Plan Map Amendments and Rezoning

It is stated in Chapter 2, Article 3: UNIVERSAL PROCEDURES, Division 2: NOTICE REQUIREMENTS
Section 2.3.1.1 Application Processing
This Article 3 is applicable to all applications required or submitted pursuant to this development code.
Applications, petitions and requests initiated by the City Council, any city board or commission or city staff, however, are exempt from the requirements pertaining to neighborhood presentations under subsections E, F and G of Division 1.

AMEND second sentence by adding the words "EXCEPT FOR COMPREHENSIVE PLAN MAP AMENDMENTS AND REZONING" to the end of the second sentence, to read.
"Applications, petitions and requests initiated by the City Council, any city board or commission or city staff, however, are exempt from the requirements pertaining to neighborhood presentations under subsections E, F and G of Division 1 EXCEPT FOR COMPREHENSIVE PLAN MAP AMENDMENTS AND REZONING"

As stated in the proposed code, this process is not transparent and not the direction that council has generally given - that we want notice to the neighborhood of up-coming proposed changes. Just because it is city-initiated should not mean we don’t do the neighborhood presentations.

See also proposed amendment to Section 2.1.1.2 table, General Notice Requirements.
<table>
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</thead>
<tbody>
<tr>
<td>#31 HUGHSON</td>
<td></td>
<td></td>
<td></td>
<td>Amendment: ADUs - Change Permitted to Limited for FD, SF-R, and CD-3</td>
</tr>
</tbody>
</table>
| | | | | Amend Section 5.1.1.2 Land Use Matrix  
| | | | | At the intersection of Accessory Dwelling Unit and FD strike each “P” and insert “L”.  
| | | | | At the intersection of Accessory Dwelling Unit and SF-R strike each “P” and insert “L”.  
| | | | | At the intersection of Accessory Dwelling Unit and CD-3 strike each “P” and insert “L”.  
| #32 HUGHSON | | | | Amendment: Posted Notices |
| | | | | Section 2.3.2.1 General Notice Requirements E. Posted Notice.  
| | | | | Strike “11” and insert “17” to read  
| | | | | Whenever this Development Code requires that notice of a public hearing be posted on land, the responsible official shall cause notification signs stating the purpose of the hearing to be placed on the subject property at least 17 days before the first public hearing.  
| | | | | This makes this consistent with the table in Section 2.1.1.2  
| | | | | Amend Section 2.3.2.1 General Notice Requirements E. Posted Notice.  
| | | | | By adding a new number item 2.  
| | | | | Sign shall be at least 24 inches by 24 inches. The type of change and the date of the hearing shall be in text at least 6 inches tall.  
| | | | | And renumber items 2-4 to 3-5.  
| #33 HUGHSON | | | | Amendment: ADUs - Change occupancy use restrictions.  
| | | | | In Section 5.1.3.1 C 2, Use Standards strike  
| | | | | “a. An accessory dwelling unit is considered an independent unit for the purposes of occupancy restrictions.”  
| | | | | and insert  
| | | | | “a. On lots with accessory dwelling units, occupancy is restricted to a family and up to two other persons who is not related to any of the other family members by blood, legal adoption, marriage, or conservatorship.”  
| #34 HUGHSON | | | | Resolution on next steps - please add  
| | | | | The Wonder World Drive (now Ranch Road 12) Land Use Plan (or Overlay)  
| | | | | and all the other items noted as “next steps” or similar in previous presentations by staff.  
| #35 HUGHSON | | | | Change Single Family Protection Buffer to equal to or more than 50%  
| | | | | CHANGE the Work Session proposed amendment  
| | | | | Single Family Zoning Districts may not request a rezoning to ND3.5, ND4, or ND4M unless located on a major arterial when surrounded by more than 50% Single Family Zoning Districts.  
| | | | | Amend Insert “equal to or” in front of “50%” to read  
| | | | | Single Family Zoning Districts may not request a rezoning to ND3.5, ND4, or ND4M unless located on a major arterial when surrounded by EQUAL TO OR more than 50% Single Family Zoning Districts.  
| #36 HUGHSON | | | | Amendment: Rename ND to RDD  
| | | | | Rename all Neighborhood Districts (ND) to Residential Density Districts (RDD).  

Staff Analysis: Will updated based on amendment #29 outcome.
<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>#37 HUGHSON</td>
<td>Allow Flag Signs as a permanent sign</td>
<td></td>
<td></td>
<td>Staff Analysis: Will require specific design criteria added to Code.</td>
</tr>
<tr>
<td>#38 HUGHSON</td>
<td>Allow flag signs as a temporary sign</td>
<td></td>
<td></td>
<td>Staff Analysis: Currently, time durations for temporary signs are no longer than 90 days per calendar year.</td>
</tr>
</tbody>
</table>
630 East Hopkins - Work Session

I. Call To Order

With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Thomaides at 3:03 p.m. Tuesday, April 3, 2018 in the City Hall Conference Room, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Deputy Mayor Pro Tem Scott Gregson, Council Member Melissa Derrick, Council Member Jane Hughson, Mayor John Thomaides and Council Member Ed Mihalkanin

1. Receive a Staff presentation and hold discussion regarding the Federal Guiding Principles for the City’s 2018 Legislative Program Activities, and provide direction to Staff.

Kristy Stark, Director of Communications and Intergovernmental, presented the Council the proposed Federal Guiding Principles for 2018. She explained that these Guiding Principles will be used when the Council goes on their lobbying trip to Washington, DC April 24-26.

Mrs. Stark walked the Council through recommended edits of the document. The first of which was to strike "Support flood reconstruction and mitigation efforts by administering federal funding received through the U.S. Department of Agriculture’s Natural Resources Conservation Service for five floodwater retarding structures, or dams, in the Upper San Marcos River Watershed." and to add working that supports a regional partnership "Support federal funding solutions to develop regional partnerships to maximize solutions for both current and future flood resiliency, to create a community resilient to regional and localized flooding events, to prevent future damages from upstream and downstream development, and to improve overall storm water quality."

Mrs. Stark reviewed the proposed edits for Transportation. Council directed Staff to insert the language, "...and advancing the economic development goals of our community,..." to the first bullet under Transportation.
Discussion was held regarding if the City has a list of major infrastructure needs. Staff confirmed that a list is maintained by engineering. Discussion was held regarding LBJ and Guadalupe roadways and how they are impacted during flood events. Staff will look at all of the ownership of what the City owns vs. what TxDot owns so that the Council has that prior to going to Washington.

Mrs. Stark reviewed edits within Education and Workforce Development, Neighborhoods, Workforce Housing and Sustainable Development, River and Environmental Protection, Economic Development and Public Safety.

Discussion was held regarding asking for the Normandy Group's feedback on the inclusion of statements regarding the support of preserving DACA and NAFTA, and also the new Census questions regarding citizenship status. Council provided direction to Staff to get with Normandy and see what they suggest and will bring back those recommendations on April 17.

2. Receive a Staff presentation and hold discussion regarding the City’s current and future debt, and provide direction to Staff.

Bert Lumbreras, City Manager, kicked off the presentation and discussion with a brief introduction related to the focused discussion on where we are in regards to our debt and how this information will best serve the Council in making budget decisions.

Heather Hurlbert, Director of Finance, provided the Council with the presentation regarding the City's current and future debt. She began with a debt overview regarding types of debt. Mrs. Hurlbert then reviewed the City's current debt. Of the $304.7M in outstanding City debt, $228M or 75%, uses funding sources other than property tax to pay the annual debt service. The debt supported by property taxes totals $76.7M.

Mrs. Hurlbert presented that of the City's current General Fund debt is as follows:

Outstanding Debt
$5.8 M - Hotel Conference Center Project - Debt serviced by rent payments from JQ Hammons.
$8.5M - Hotel Conference Center Project - Debt serviced by 2% venue tax and 100% HOT collections from Embassy Suites.
$28.9M - Wonder World Extension - Debt serviced by TxDot.
$76.7M - General Fund CO Bonds - Debt Serviced by City of San Marcos tax
Mrs. Hurlbert reviewed the City's debt philosophy. In 2008, the City evaluated the benefits of issuing Certificates of Obligation (CO's) instead of Revenue Bonds to fund capital improvement projects for the Enterprise funds. CO bonds could be issued at a lower interest rate versus Revenue Bonds due to the stronger credit rating of the General Fund. CO bond covenants do not require the Enterprise funds to maintain the 1.2 times coverage, which lessen rate pressures.

Mrs. Hurlbert reviewed the initiatives to minimize debt: Moved CIP/Engineering Department from debt funded to General Fund operations. Increased operating budget for street overlay and maintenance from $400K to $1.6M. Added sidewalk maintenance and improvements to General Fund operations. Created a budget for routine maintenance and equipment replacement: Parks, Facilities, IT, Fire, and Police. Began annual sweep of Enterprise fund balance in excess of financial goal to Cash fund CIP projects.

Mrs. Hurlbert reviewed the approved 2018 CIP Projects and their funding detail. She also reviewed the bond process timeline regarding the CO and GO issuance that will be coming before the Council on May 15.

Mrs. Hurlbert reviewed General Obligation bonds and explained that Payments for GO bonds will be structured to have a payment in FY 2018. Bond payments are usually structured to begin in the subsequent fiscal year. Payment in FY 2018 will use the tax revenue generated by assessing the tax rate to the full rate for the 2018 budget. She explained that Staff is confident that Standard and Poors will affirm the City's AA rating, which we have maintained since 2014.

Mrs. Hurlbert discussed planning for future debt. She provided that Staff will prepare the 10 year CIP plan for all funds annually. The first 5 years of 10
year CIP is semi-constrained based on: Debt capacity, Update General Fund forecast annually based on current forecasts and trends, Water/Wastewater, Electric, and Stormwater Management funds capacity determined through the annual rate modeling, and Engineering’s capacity to manage projects. The first year is adopted by City Council during the budget process.

Staff will provide the Council with a prioritized list of CIP projects including outer year priorities.

Mrs. Hurlbert provided the following related to anticipated future debt. General fund debt is anticipated to be constrained at an average of $10M per year for at least the next five years. Financial modeling during the bond process included maintaining capacity for the General Fund’s portion of future City Hall and Public Services facility improvements/expansion. Rising construction costs and slowing sales tax growth will affect this capacity so there may have to be further constrains to maintain capacity for facility improvements/expansion.

In closing, Mrs. Hurlbert provided that the General Fund tax supported debt levels are currently less than in 2010. Implemented sound financial policies and initiatives to limit issuing debt by funding expenses in the operating budget. Have used conservative budgeting and long term forecasting to ensure the City is fiscally responsible. Outstanding General Fund outstanding debt is well below the allowed percentage in the financial policy. General Fund debt balance is less than many of our peer cities. Continue to closely monitor the financial trends and update the forecasted capacity in the General Fund and modify CIP plans as needed. Continue to explore alternative financing options to minimize outstanding debt.

Staff reviewed the 2018 CIP list and provided some of the larger projects. Discussion was held regarding the addition of a line item to show general fund debt related to the future City Hall and Public Services facility improvements/expansion. Staff indicated that they would add that line item. Discussion was held regarding when a high growth city begins to see a return on investment related to infrastructure or development.

III. Adjournment.

Mayor Thomaides adjourned the work session of the San Marcos City Council at 4:55 p.m.
I. Call To Order

With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Thomaides at 3:00 p.m. Tuesday, April 17, 2018 in the City Hall Conference Room, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Deputy Mayor Pro Tem Scott Gregson, Council Member Melissa Derrick, Council Member Jane Hughson, Mayor John Thomaides and Council Member Ed Mihalkanin

1. Receive a Staff presentation and hold discussion regarding the current San Marcos Transit System to include; past and present operations, Master Plan concepts, and funding mechanisms, and provide direction to Staff.

Bert Lumberras, City Manager, provided an introduction of work session regarding the current San Marcos Transit System. Rodney Cobb, Executive Director of Community Services, provided an introduction of his Transit team: Oscar Hairell and Pete Banion and provided the layout for the presentation and turned it over to Mr. Hairell.

Mr. Hairell began and asked that the Council look at all transit within the City. He began with Texas State University and how they manage their transportation and movement of people to further the mission of the campus. He reviewed the current operations and explained that they have opened up their system to allow anyone to ride, not just students. He stated that operational days are based on class schedules. Mr. Hairell provided that that student fees provide approximately $7 million annually for transportation services, which includes parking and Bobcat Shuttle service.

Mr. Hairell moved into explaining the San Marcos transit system. Capital Area Rural Transportation System (CARTS) operates transit system in San Marcos utilizing federal rural transit grant funds - 1996 to February 2013. In 2010 the Census determined the population of San Marcos, Martindale, and Redwood
constitute an urbanized area (UZA) affecting Federal funding allocations. This provided access to Federal urban transit grant funds. The City authorized CARTS to become the FTA Direct Recipient of the UZA in March 2013. CARTS created an Urban Transit District (UTD) in March 2013. This provided access to State transit grant funds.

Mr. Hairell explained that the City completed a 5 year Strategic Master Plan in August 2014. He further explained operational restructure that was implemented in 2015. He provided that the system changed from “hub & spoke” to “networked” route structure. He provided that they were focused on rider destinations. He stated that 72% of the riders surveyed needed transportation to either work or shopping. This resulted in 19 transfer bus stop locations. Mr. Hairell explained the capital improvements that were implemented. These included replacing and modernizing the fleet of busses. They installed new bus stop signage, bus stop shelters and benches, the installation of real-time arrival systems and online trip planning.

Mr. Hairell provided that the City has 7 fixed bus routes and that they are seeing 5,078 riders per month on average. He reported that the numbers are reflecting an increase in performance. He provided that they have a senior shopper route on Tuesday & Thursday with an average of 300 riders per month. Staff will provide the Council with the number of participants in the survey from 2014. Mr. Hairell provided that complementary para-transit service is provided with 3 paratransit vehicles available. Mr. Hairell provided the service span is running Monday - Friday, 7 a.m. to 8 p.m. with 250 annual operational days. He stated the last two years, a Federal Grant funding program was used to extend normal service hours by 2 hours. These grant funds are not permanent. Discussion was held regarding a better system to gather rider numbers. Staff provided that the City receives approximately $14,000 a year from Texas State paying for student riders.

Mr. Hairell reviewed our current funding and explained that Federal Transit Administration Funding is calculated by population and population density. The City of San Marcos is currently FTA 5307 which provides operating and/or Capital Improvement funds. He explained FTA 5339 and FTA 5307 STIC (Small Transit Intensive City) funding. He explained that both are competitive funding allocations. He explained that if the City hit 6 performance metrics under FTA 5307 STIC could provide a maximum of $1,146,000. Mayor Pro Tem Prewitt provided that there are more areas of funding available that we would be able to apply for as well.
Mr. Hairell provided that the Federal Transit Funding requires local funds or “match”. He stated that operating assistance match requirement 50% Federal to 50% Local and capital improvement assistance match requirement 80% Federal to 20% Local. The City of San Marcos local match contributions for FY17-18 is $450,000. This has been the same for the last 3 years. Mr. Hairell reviewed what a Direct Recipient for Federal and State transit funding allocated to the San Marcos UZA. He defined Direct Recipient and Urban Transit District (UTD). Mr. Hairell reviewed the process for becoming a Direct Recipient.

Mr. Hairell provided the outcomes of becoming a Direct Recipient (DR), and also reviewed transit partnerships and model options. He provided two different types of models: Direct Recipient enters into an Interlocal Agreement & Direct Recipient with Subrecipient. Mr. Cobb provided that the City and Texas State have already submitted a joint RFQ for a consultant that will look into what would be the most advantageous for the two organizations related to transit structures models. The two entities have agreed to pay for this consultant jointly.

Mr. Lumbreras provided that the DR is a big issue, but we have to determine who is going to be the main recipient. He stated that the individuals that will be contracted will be able to provide us with the best overall model option for both entities. Discussion was held regarding the possibility of CAPMETRO providing service in San Marcos. Nancy Nusbaum, Texas State University, provided that they are covering their costs now with some going into reserve, but their contract requires that the driver wage be increased by $1 each year. They are only allowed to charge students $95 per semester for the transportation fee and can only raise it to $100, but it would require a student referendum to increase it that $5 amount. When the system begins to not pay for itself the University may have to look at cutting service.

Following statements and discussion the City Council provided consensus for Staff to start moving forward with becoming a Direct Recipient, and directed Staff to move forward with working with the consultant in conjunction with Texas State to evaluate transit partnerships and model options. Staff will place an update on the August 7 meeting agenda. Council provided consensus for Staff to prioritize the Direct Recipient information over the results from the consultant related to transit structure models.

EXECUTIVE SESSION

2. Executive Session in accordance with § 551.071 - Consultation with Attorney: Discuss
and review updates on Senate Bill (SB) 4 ruling.

A motion was made by Mayor Pro Tem Prewitt, seconded by Deputy Mayor Pro Tem Gregson, to enter into Executive Session at 5:05 p.m. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

III. Adjournment.

The City Council adjourned Executive Session at 5:50 p.m. and returned into Open Session.

Mayor Thomaides declared the San Marcos City Council Work Session adjourned at 5:50 p.m.

Jamie Lee Case, City Clerk John Thomaides, Mayor
City of San Marcos
Meeting Minutes
City Council

Tuesday, April 17, 2018
6:00 PM
City Council Chambers

I. Call To Order

II. Roll Call

Present: 7 - Mayor Pro Tem Lisa Prewitt, Council Member Saul Gonzales, Deputy Mayor Pro Tem Scott Gregson, Council Member Melissa Derrick, Council Member Jane Hughson, Mayor John Thomaides and Council Member Ed Mihalkanin

III. Invocation

Rev. Gregory Ross, Sr. Minister of First Christian Church provided this evening's invocation.

IV. Pledges Of Allegiance - United States And Texas

Cuauhtemoc Ramirez, a 5th grade student at San Marcos Texas Preparatory School, led the assembly in the pledges of allegiance.

1. Consider action, by motion, or provide direction to Staff regarding the following Executive Session item in accordance with Local Government Code Section § 551.071 - Consultation with Attorney: Discuss and Review the latest on the Senate Bill (SB) 4 Ruling.

Council received consultation with the City Attorney regarding Senate Bill 4.

V. 30 Minute Citizen Comment Period

Tom Cummins, spoke in opposition of the rental registration proposed in the Code. He noted that renters make up about 57% of all cities. He registered his properties voluntarily, but believes this should not be mandatory. He asked Council to rethink their position on this topic.

Chris Secrest, 719 W. San Antonio Street, spoke in opposition of the rental registration proposed in the Code. In 2014 this was initiated as a way to contact landlords. This new proposed change would make rental registration a mandatory process. He stated this can be discriminatory if enacted and stated other cities do not require long term rental registries. He has requested that this be pulled from the Code.

Pat Fernandez, spoke on behalf of Four Rivers Realtor Association, which
represents buyers, renters, and sellers. She stated her objection of rental registration proposed in the Code. CodeSMTX has taken a lot of time and they are in support of most of the amendments, but not in support of the rental registration amendment.

Sherwood Bishop, concerned citizen speaking about protecting neighborhoods and is in support of the adoption of the Code that is being considered this evening. If there are still problems within the Code then we change those, but getting the new Code enacted now is very important.

Virgilio Altamirano, property owner in San Marcos and active community member. He has called the Council to utilize all City Resources with a progressive forward looking approach for all members of the community. He stated that housing is very restricted in San Marcos and there is a tendency to infringe on property rights.

Brad Barnard, in opposition to the rental registration amendment of the Code stating that it violates his property rights. He stated that the society we live in today wants to put the blame on someone else. He made the example that he has never rented a property to an under age tenant, however if his tenants choose to throw a party, then the police should cite this action. He should not be penalized for the action of someone else.

Katy Roden, expressed her concern of the required rental registration amendment. She urged Council to remove this requirement.

Matt Lewis, expressed his support of CodeSMTX. He noted a lot of hard work was put into this process and he is happy to see that data was used to guide this plan. The Land Use Suitability Map was useful and cultural norms were recognized. He noted that walking the neighborhoods is important and he is proud that the City is moving forward with the adoption of CodeSMTX.

Roland Saucedo, 211 Ebony, expressed his appreciation for Councils time and service. He mentioned the seminar he attended called Cultivating Strong Towns that was hosted by Matthew Lewis and Kevin Sheppard and how he gained a lot of valuable information. He read the definition of Neighborhood Character Study aloud which states it should define the DNA and character of a neighborhood and should examine patterns in existing neighborhoods and adjacent quarters to determine the future of that neighborhood and how land use and street patterns change to better support the neighborhood. He looks forward to working with Staff to make sure information is distributed to all
CONSENT AGENDA

A motion was made by Council Member Mihalkanin, seconded by Deputy Mayor Pro Tem Gregson, to approve the consent agenda with the exception of #10 and 12 which were pulled and considered separately, and item # 2A, 2C, and 2D were postponed. The motion carried by the following vote:

For:  7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against:  0

2. Consider approval, by motion, of the following meeting Minutes:
   A) April 3, 2018 - Work Session Minutes
   B) April 3, 2018 - Regular Meeting Minutes
   C) March 20, 2018 - Work Session Minutes
   D) March 26, 2018 - Special Meeting Minutes

3. Consider approval of Ordinance 2018-09, on the second of two readings, updating and amending the Water and Wastewater impact fees to be charged by the City in connection with new land development under Chapter 86, Article 5, Division 4 of the San Marcos City Code and associated land use assumptions; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

4. Consider approval of Ordinance 2018-10, on the second of two readings, amending Chapter 86, Article 5, Division 4 to change the methodology by which Water and Wastewater impact fees are calculated based upon peak flow; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

5. Consider approval of Resolution 2018-52R, adopting Guiding Principles for the 2018 City of San Marcos Federal Program Activities; and declaring an effective date.

6. Consider approval of Resolution 2018-53R, granting consent to an assignment of the Master Development Agreement and Conference Center Lease Agreement for operation of the City’s Conference Center adjoining the Embassy Suites Hotel from JQH-San Marcos Development, LLC, also known as John Q. Hammons Hotels and Resorts, to JDHQ Hotels LLC, commonly known as Atrium Hospitality; authorizing the City Manager to execute the consent to assignment on behalf of the City; and declaring an effective date.

7. Consider approval of Resolution 2018-54R, approving the award of a contract for San Marcos Electric Utility Substation Maintenance Services (IFB 218-199) to Pike Electric, LLC in the estimated amount of $39,384.00; authorizing the City Manager or his designee to execute the appropriate documents related to the renewal of this agreement;
and declaring an effective date.

8. Consider approval of Resolution 2018-55R, approving the award of a contract to LJ Power, Inc for maintenance, repair, and parts for San Marcos Water and Wastewater Facilities Generators (IFB 218-201) in the estimated amount of $37,735.00; authorizing the City Manager or his designee to execute the appropriate documents related to the renewal of this agreement; and declaring an effective date.

9. Consider approval of Resolution 2018-56R, approving the award of a contract to Texas Utility Engineering, Inc. for the Annual Utility Pole Loading and Structural Soundness Survey (IFB 218-213) in the estimated amount of $31,250.00; authorizing the City Manager or his designee to execute the appropriate documents related to the renewal of this agreement; and declaring an effective date.

10. Consider approval of Resolution 2018-57R, approving an Agreement of Sale with the Trust for Public Land for the City to purchase approximately 151 acres of land for the third and final acquisition out of the Wildenthal Tract at a cost neutral amount of $2,265,368, subject to the award to the City of Federal Grant Funds from the Texas Parks and Wildlife Department for such purchase; authorizing the extension of any federal grant restrictions to the abutting approximately 52 acres acquired in phase two; authorizing the City Manager to execute said agreement and related closing documents on behalf of the City; and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Derrick, to approve Resolution 2018-57R. The motion carried by the following vote:

- For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Mayor Thomaides and Council Member Mihalkanin
- Against: 0
- Recused: 1 - Council Member Hughson

11. Consider approval of Resolution 2018-58R, approving the purchase of ten (10) 2018 Dodge Charger Police vehicles for the Police Department in the total purchase amount of $221,766.00 from Cowboy Motor Company, LC, through the Texas Local Government Purchasing Cooperative Buyboard Contract for vehicles, heavy duty trucks, police motorcycles, parts, and service labor (Buyboard Contract #521-16); authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City and declaring an effective date.

12. Consider approval of Resolution 2018-59R, approving the purchase of the Parking Mobility Software Application, including training and support, in the total purchase amount of $38,000.00 annually from Access Empowerment, a Texas-Based 501(c)(3) Nonprofit Organization; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City and declaring an effective date.
A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Council Member Derrick, to approve Resolution 2018-59R. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

13. Consider approval of Resolution 2018-60R, approving the terms and conditions of two subordination agreements between the City of San Marcos, Compass Bank and Berry Aviation, Inc. to secure Compass Bank's lien as superior in regards to aircraft and aircraft components purchased with loan proceeds and located in two separate hangars at the San Marcos Regional Airport; authorizing the city manager to execute the subordination agreements; and declaring an effective date.

NON-CONSENT AGENDA

14. Consider the following ordinances on second reading:

A. Ordinance 2018-02, adopting a new San Marcos Development Code (“CodeSMTX”), including appendices (the “Design Manual”), under Subpart B of the San Marcos City Code to replace both the current Land Development Code under Subpart B and the San Marcos Smartcode under Subpart C of the San Marcos City Code; approving other technical references to be used by City Staff in administering the new San Marcos Development Code; providing for penalties; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

B. Ordinance 2018-03, amending the City’s Comprehensive Plan, Vision San Marcos: A River runs Through Us, by amending various sections for consistency with the goals of the City’s new Development Code (“CodeSMTX”), including providing updated descriptions of and visions for identified Development Zones, establishing existing Neighborhood Areas or Land Preservation Areas as two types of areas of stability, providing new descriptions for types of Development Corridors, and amending the boundaries of Activity Nodes, Employment Centers and Intensity Zones described in the Preferred Scenario Map; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

C. Ordinance 2018-04, amending various sections of the San Marcos City Code for consistency with, or to complement the concurrent adoption of the new San Marcos Development Code (“CodeSMTX”); providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

Main Motion: A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Ordinance 2018-02, on the second of two readings.
Motion to Amend: A motion was made by Council Member Hughson, seconded by Council Member Mihalkanin, to amend Ordinance 2018-02, Section 4.2.1.1, Building Types, by replacing the zero lot line house description with the description in Section 4.4.6.6 which reads: A building type that accommodates one detached or two attached dwelling units with each unit located on separate lots with separate entrances facing the street. If units are attached they share a common wall along a lot line. Zero lot line buildings. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

Main Motion: to approve Ordinance 2018-02, on second reading as amended. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson and Mayor Thomaides

Against: 1 - Council Member Mihalkanin

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Ordinance 2018-03, on the second of two readings. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson and Mayor Thomaides

Against: 1 - Council Member Mihalkanin

A motion was made by Deputy Mayor Pro Tem Gregson, seconded by Mayor Pro Tem Prewitt, to approve Ordinance 2018-04, on the second of two readings. The motion carried by the following vote:

For: 6 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson and Mayor Thomaides

Against: 1 - Council Member Mihalkanin

15. Consider approval of Resolution 2018-61R, approving an Action Plan that outlines further measures to be taken to implement or enhance the purposes and objectives of the newly adopted San Marcos Development Code (“Code SMTX”) and associated changes to the City’s Comprehensive Plan; authorizing City Staff to undertake such efforts as are necessary to implement such measures; and declaring an effective date.

Main Motion: a motion was made by Council Member Derrick, seconded by Council Member Hughson to approve Resolution 2018-61R.
Motion to Amend: a motion was made by Council Member Hughson, seconded by Mayor Pro Tem Prewitt, to amend Part 1 of Resolution 2018-61R with the following language:
Section A: change Small Area Plan to Neighborhood Character Studies

Subsection a: work with community members, landowners, and residents to update the neighborhood character studies of the City's Comprehensive Plan by holding at least 12 area neighborhood meets for initial discussion

Subsection c: Create the Small Area Plans, and subsection d: Hold another neighborhood meeting in each of the areas to discuss and possibly alter, depending on resident input, the Small Area Plan(s).

The motion failed by the following vote:

For: 3 - Council Member Gonzales, Council Member Hughson and Council Member Mihalkanin

Against: 4 - Mayor Pro Tem Prewitt, Deputy Mayor Pro Tem Gregson, Council Member Derrick and Mayor Thomaides

A motion was made by Mayor Thomaides, seconded by Council Member Derrick, to postpone Resolution 2018-61R to the next Regular City Council meeting. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Prewitt, Council Member Gonzales, Deputy Mayor Pro Tem Gregson, Council Member Derrick, Council Member Hughson, Mayor Thomaides and Council Member Mihalkanin

Against: 0

VI. Question and Answer Session with Press and Public.

Roland Saucedo, 211 Ebony, Stated that he was under the impression that a Small Area plan is a model Neighborhood Character Study. If the small area study worked for their neighborhood because they don’t have the money to perform a Neighborhood Character Study, then what is the debate?

VII. Adjournment.

Jamie Lee Case, TRMC, City Clerk

John Thomaides, Mayor
Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov
AGENDA CAPTION:
Consider approval of Ordinance 2018-07, on the second of two readings, amending the City’s 2017-2018 Fiscal Year Budget by budgeting and appropriating $442,000 from General Fund to be distributed to The Village to provide funding for the construction of Phase II of The Village Main Project; and providing an effective date.

Meeting date: 3/6/2018 - 1st Reading
05/01/2018 - 2nd Reading

Department: Finance-Heather Hurlbert, Finance Director

Amount & Source of Funding
Funds Required: $442,000
Account Number: 10001280.54249
Funds Available: $442,000
Account Name: Outside Agency Funding

Fiscal Note:
Prior Council Action: City Council committed to funding this agency during the FY18 budget process with revenues generated by the Best Buy call center.

City Council Goal: [Please select goal from dropdown menu below]
Goal # 7 Maintain Fiscal Responsibility
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☐ Not Applicable
Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Choose an item.

Background Information:
During the FY18 budget process, representatives from The Village requested $442,000 towards their capital campaign to construct the $5M Phase II/Village Main building. The Village Main Project is a 22,000 square foot facility, which will combine several non-profit social services agencies into one location on the south side of town near Hunter Rd and Reimer Avenue. The organization has received funds through foundation grants and received $350,000 towards the project from the County. The City’s contribution will limit the amount funded through a bridge loan estimated to be between $1.7 to $2 million. The social service agencies that are proposed to occupy this building are Community Action, Early Childhood Intervention Homespun, Family Justice Center as well as the City’s Women, Infants and Children’s program.

City Council committed to funding the requested $442K with sales tax revenue generated by the Best Buy call center. The first quarter revenues have been received and there is sufficient amounts to fund the full requested amount in the first quarter. This budget amendment will appropriate the funds for the funding request.

Council Committee, Board/Commission Action:
Click or tap here to enter text.

Alternatives:
Click or tap here to enter text.

Recommendation:
Approval of the budget amendment
ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING THE CITY’S 2017-2018 FISCAL YEAR BUDGET BY BUDGETING AND APPROPRIATING $442,000 FROM GENERAL FUND TO BE DISTRIBUTED TO THE VILLAGE OF SAN MARCOS TO PROVIDE FUNDING FOR THE CONSTRUCTION OF PHASE II OF THE VILLAGE MAIN PROJECT; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

In accordance with Section 8.16 of the City Charter, the City Council declares that a public necessity exists that requires an amendment to the City’s 2017-2018 Fiscal Year Budget.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The City Budget Ordinance for the 2017-2018 Fiscal Year is amended as set forth in the attached Exhibit A, to appropriate $442,000 from general fund to be distributed to the Village of San Marcos to provide funding for the construction of Phase II of the Village Main Project; and providing an effective date.

SECTION 2. These revisions will be incorporated into the 2017-2018 Fiscal Year City Budget.

SECTION 3. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 5. This ordinance will take effect immediately after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on March 6, 2018.

PASSED, APPROVED AND ADOPTED on second reading on May 1, 2018.

John Thomaides
Mayor

Approved: 
Attest:

Michael J. Cosentino Jamie Lee Case
City Attorney City Clerk
### Budget Amendment
Approved by Ordinance No.

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<th>Fund/Account</th>
<th>Account Name</th>
<th>Current Budget/Balance</th>
<th>Total Amendment</th>
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<td>Use of Fund Balance</td>
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**Description**

Amend the General Fund budget to appropriate funds from sales tax revenue generated by the Best Buy call center for contribution to The Village for the construction of the Phase II/Village Main project.
AGENDA CAPTION:
Consider approval of Resolution 2018-62R, approving the recommendation of the San Marcos Commission on Children and Youth to allocate $50,285 in 2017-2018 Fiscal Year funding for 14 youth programs that contribute to implementation of the Youth Master Plan; authorizing the City Manager to take such actions as are necessary to enable such allocation of funds; and declaring an effective date.

Meeting date: May 1, 2018

Department: Parks and Recreation

Amount & Source of Funding
Funds Required: $50,285
Account Number: 10001280.54275
Funds Available: 93,056.18
Account Name: Youth Initiatives

Fiscal Note:
Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☒ Not Applicable
Background Information:
This is the sole funding round for 2017-2018. The San Marcos Commission on Children and Youth redefined the Youth Master Plan into five reframed Outcomes/Goals. Applicants were required to indicate which Outcomes/Goals they were helping to achieve. The San Marcos Commission on Children and Youth is pleased with the variety of programs that applied and feel comfortable approving funds for them, as they continue to help us build a stronger future for our youth.

Council Committee, Board/Commission Action:
Click or tap here to enter text.

Alternatives:
Click or tap here to enter text.

Recommendation:
Click or tap here to enter text.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE RECOMMENDATION OF THE SAN MARCOS COMMISSION ON CHILDREN AND YOUTH TO ALLOCATE $50,285 IN 2017-2018 FISCAL YEAR FUNDING FOR 14 YOUTH PROGRAMS THAT CONTRIBUTE TO IMPLEMENTATION OF THE YOUTH MASTER PLAN; AUTHORIZING THE CITY MANAGER TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ENABLE SUCH ALLOCATION OF FUNDS; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. The San Marcos Commission on Children and Youth has recommended that $50,285.00 in 2017-2018 Fiscal Year funds be allocated for 14 youth programs in amounts as shown in Exhibit A, attached hereto and made a part hereof.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The recommendation of the San Marcos Commission on Children and Youth to allocate $50,285.00 in 2017-2018 Fiscal Year funds for 14 youth programs as shown in Exhibit A is hereby approved.

PART 2. The City Manager is hereby authorized to take such actions as are necessary to enable the allocation of such funds, subject to the City’s fiscal year budget ordinance.

PART 3. This resolution shall become effective immediately from and after its passage.

ADOPTED on May 1, 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
Recommendations for Youth Services Funding
FY 2017-2018
14 programs | $50,285 total

Community Action, Inc.

Early Childhood Coalition of Hays County; Early Childhood Summit - The Texas Home Visiting Program grant, operated by the Department of Family and Protective Services are funded by Senate Bill 426, was awarded to Community Action, Inc. of Central Texas in May 2015. Texas Home Visiting Program supports communities in operating evidence-based home visiting programs while creating a coordinated, comprehensive system of services for pregnant women, young children, and their families. In 2015 Texas Home Visiting in collaboration with Head Start Program, SMCISD and early childhood services providers in Hays County established an Early Childhood Coalition of Hays County.

This coalition is a collaboration that coordinates multiple early childhood services to better promote child development by supporting families and communities. The purpose of the summit is to increase community awareness about the importance of early development, to lay the foundation for lifelong health and well-being and improve school readiness of all children. The main focus of the Coalition this year was implementation of the EDI, setting goals and priorities, our work influenced our Summit agenda. The objective of the Summit is to increase community awareness about the importance of early development, to lay the foundation for lifelong health and well-being and improve school readiness of all children. Hays County EDI data was compared to the national data, and the idea was to zoom in to Hays County from the State level. Informing about child data at the State level, existing statewide initiatives, discussing EDI of Hays County and ending with a panel of providers talking about their work.

How they will measure program success: Program success is measured by increased family and community engagement: participation in family nights, parent workshops, library attendance. Increased child outcome, improved Kindergarten readiness of children in the community, improved wellness and health practices.

Priority Areas that this program will fulfill:
Outcome/GOAL 1 - All children are kindergarten ready.

Strategies:

1. Form coalition between Head start, Bonham, Child Care centers, other PreK providers in area

Goals for the program:

- Improve community Health and Wellness
- Promote Kindergarten Readiness
- Improve Family Engagement

How will they know they met these goals: Using Results Based Accountability Practice (RBA) RBA uses a data-driven, decision-making process to help the coalition to take action to solve problems and develop a strategic plan, which will address improvement needs

Number of clients served yearly: 699 for Texas Home Visiting  Number of direct clients served ONLY in San Marcos: 311

Amount Requested: $5,000  Commission on Children and Youth Recommendation: $4,000

Community Action, Inc.

Texas Home Visiting Program; Fatherhood Initiative – The Texas Home Visiting Program grant, operated by the Department of Family and Protective Services are funded by Senate Bill 426, was awarded to Community Action, Inc. of Central Texas in May 2015. Texas Home Visiting Program supports communities in operating evidence-based home
visiting programs while creating a coordinated, comprehensive system of services for pregnant women, young children, and their families. This coalition is a collaboration that coordinates multiple early childhood services to better promote child development by supporting families and communities.

**How they will measure program success:** Program success is measured by number of fathers participating in Father Engagement Workshops and center and community events. The program aggregates school readiness data for each child participating in the program, measuring each child’s gain across all developmental domains. This data is compared with father/father figure and other family member’s level of engagement in the program and child’s education. Each father/father figure participating in 24/7 DAD workshop completed pre-12 workshop sessions survey, and will complete post-workshop sessions survey. This data will be utilized to measure the effects of the 24/7 DAD curriculum on father and family outcomes.

**Priority Areas that this program will fulfill:** Priority Area for Action 3: Increase and improve availability and access to developmental activities and opportunities and support.

**Goals for the program:**
The Goals of Texas Home-Visiting Hays County are to

- Improve maternal and newborn health.
- Reduce the rate of child injuries and child maltreatment
- Improve school readiness and academic achievement
- Reduce domestic violence and crime
- Improve family self-sufficiency

Increase coordination and referrals for community resources as well as supports for families

**How will they know they met these goals:** By aggregating school readiness data on an ongoing basis: assessing each child gain across all developmental domains, measuring parent/father and community engagement.

We are currently tracking father involvement in our database and will be able to see the increase in father involvement from the beginning to the end of the funding year and measure child developmental outcome.

**Number of clients served yearly:** 700  
**Number of direct clients served ONLY in San Marcos:** 268  
**Amount Requested:** $5,000  
**Commission on Children and Youth Recommendation:** $4,000

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**Community Action, Inc.**

**YouthFest!** ~ YouthFest! will be held in April during child abuse prevention and awareness month. Approximately 25 vendors representing various youth serving organizations and health care providers will host booths with activities for children. Local public school and child care choirs will perform and other child-friendly activities, including a trackless train and petting zoo, will be available for free to all families in attendance.

**How they will measure program success:** For this first year of YouthFest! we will measure success based on attendance numbers and vendor feedback. In subsequent years we hope to expand our outcome measures in collaboration with partner agencies.

**Priority Areas that this program will fulfill:** We are seeking to directly influence Goal 2: All children are physically and mentally healthy with the YouthFest! event. All vendors will be required to provide a children’s activity at their booth, additionally we have other activities that encourage gross and fine motor play. The performances are an opportunity for children to work on their social-emotional skills both as participants and audience members.

**Goals for the program:**

- Improve maternal and newborn health.
- Reduce the rate of child injuries and child maltreatment.
• Improve school readiness and academic achievement.
• Reduce domestic violence and crime.
• Improve family self-sufficiency.

Increase coordination and referrals for community resources as well as supports for families.

**How will they know they met these goals:** These are goals that will take much longer than one year, or one-round of funding to address. YouthFest! will be focused on the second stated goal of Texas Home Visiting-Hays County, reducing the rate of child injuries and child maltreatment. We know from research that certain 'protective factors' are linked to a lower incidence of child abuse and neglect. The protective factors we plan to directly impact at YouthFest! include concrete supports for parents in need (vendors) and social connections (free, daylong, weekend event with group performances).

<table>
<thead>
<tr>
<th><strong>Number of clients served yearly:</strong> 160</th>
<th><strong>Number of direct clients served ONLY in San Marcos:</strong> 87</th>
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<tr>
<td><strong>Amount Requested:</strong> $1,500</td>
<td><strong>Commission on Children and Youth Recommendation:</strong> $1,500</td>
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**Girls Empowerment Network**

**The 180 Program** – *The 180 Program (180)* is a prevention and intervention program designed to reach middle and high school girls involved in or at high risk of becoming involved in the juvenile justice system. Its goals are to decrease rates of juvenile delinquency and increase in-school functioning, critical thinking skills, and self-sufficiency. *180* reaches many girls after a first offense and helps them get back on track, preventing them from entering or re-entering the juvenile justice system.

**How they will measure program success:** Participants are asked to respond to evaluation forms at the conclusion of each program indicating knowledge gained and potential behavior change or risk avoidance. Informal feedback is gathered from teachers and other school personnel. Previous measurement by a professional evaluator indicated that participants who attend the targeted sessions for juvenile delinquent girls come to school more often and get in less trouble and show a particularly positive impact on ability to handle conflict and stressful situations.

**Priority Areas that this program will fulfill:** "Outcome/GOAL 3 - San Marcos will have a college and career ready workforce capable of attracting industry to improve economic development and quality of life; 1. Increase high school graduation rates." The 180 Program contributes to increased graduation rates by improving girls’ attachment to school. The program helps them create positive bonds with peers they can count on in their schools and helps them learn coping skills that they can use to improve their in-classroom functioning and behaviors. Additionally, according to GEN’s former professional evaluator, Shore Research, who studied the program in depth, girls who are highly engaged in the 180 Program have better school attendance and get in less trouble.

**Goals for the program:** GEN’s long-term goals are to increase girls self-efficacy/belief in their personal power so that they can pursue the future of their dreams, while simultaneously decreasing rates of juvenile delinquency and risky behaviors for girls.

Short-term outcomes will be that 75% of participants will demonstrate:
- increased self-efficacy (**confidence**),
- increased **creativity** and **critical thinking** skills,
- increased positive **communication, collaboration**, and pro-social bonding with peers, leaders, and role models, and
- increased **coping skills** (resiliency, grit, and stress management.)

**How will they know they met these goals:** In collaboration with a third-party evaluator, GEN gathers insights from multiple angles to evaluate its programs. We use surveys and focus groups with our girl participants, and we also gather...
formal feedback from our adult program facilitators. The information we gather enables us to improve our program delivery and determine if our outcomes are being achieved.

Following is program most recent outcome achievement (2016-2017 school year):

- 90% of girls reported positive peer bonding in their groups.
- 89% of girls learned effective ways to say no to things that they think could hurt them.
- 86% of girls reported learning ways to achieve their goals.
- 94% of girls said that group taught them how to handle stressful situations.

Number of clients served yearly: 6,684  
Number of direct clients served ONLY in San Marcos: 125

Amount Requested: $5,000  
Commission on Children and Youth Recommendation: $4,000

San Marcos Housing Authority

Kids Against Drugs – The SMHA Resident Services Program consists of four major initiatives: Youth Development Services, Elderly & Disabled Services, Self-Sufficiency, and Resident Organization. We are requesting funds to support the direct costs of our after-school program and summer program at the K.A.D. Center in the CM Allen Homes neighborhood. Our Youth Development Program provides support and encouragement to school-age youth in San Marcos. Youth get opportunities to learn many of the skills needed to become strong community leaders. They get nutritional support and help with school work. We help youth transition into successful community leaders through encouragement, access to resources, and opportunities to practice what they learn. Our activities build self-respect, teach conflict resolution, and support the development of leadership skills. We help youth learn personal responsibility, goal setting, communication skills, and the importance of community involvement. Youth earn opportunities to go on educational/recreational trips.

How they will measure program success: We record attendance and monitor the participation levels of individual students. The "Student Leadership Rubric" is applied at the beginning of the after-school program (or soon after program enrollment for new participants), at mid-year, and at the end of the school year. We obtain grade reports as needed. Another important measure of our success comes from anecdotal evidence. We are not able to do long-range tracking on kids after they leave our program, often because the families have moved out of housing. However, a few times each year, kids return to us as adults to tell us how we made a difference in their lives. As often as possible, we include these stories in the SMHA newsletter.

Priority Areas that this program will fulfill:

Outcome/Goal 2 - All children are physically and mentally healthy.

Outcome/Goal 3 - San Marcos will have a college and career ready workforce capable of attracting industry to improve economic development and quality of life.

Outcome/Goal 5 - Increase the capacity of youth for civic involvement and leadership.

To achieve these goals, our strategies include a special focus on developing leadership skills, improving academic performance, stimulating creativity, promoting physical fitness and other healthy lifestyle choices.

Goals for the program: Our overall goal is to improve the quality of life for public housing residents, reduce dependence on welfare, and empower residents to take charge of their lives and their environment. With regard to our year-round youth programs, our goals are to improve physical and mental/emotional health, to prepare kids for college and careers, to involve kids in community life, and to develop leadership skills.

How will they know they met these goals: Program staff keep paper and digital records of all services provided and outcomes achieved for the children in our programs. Assessments of physical and mental health are based on
observation by qualified staff or volunteers as well as consultations with parents. We work closely with parents to monitor school grades. Assessment of community involvement is based on observation and feedback from the community. We use a special rubric to assess the development of leadership skills.

Number of clients served yearly: 69  
Number of direct clients served ONLY in San Marcos: 69

Amount Requested: $5,000  
Commission on Children and Youth Recommendation: $4,000

San Marcos Housing Authority

PODER Learning Center – The SMHA Resident Services Program consists of four major initiatives: Youth Development Services, Elderly & Disabled Services, Self-Sufficiency, and Resident Organization. We are requesting funds to support the direct costs of our after-school program and summer program at the K.A.D. Center in the CM Allen Homes neighborhood. Our Youth Development Program provides support and encouragement to school-age youth in San Marcos. Youth get opportunities to learn many of the skills needed to become strong community leaders. They get nutritional support and help with school work. We help youth transition into successful community leaders through encouragement, access to resources, and opportunities to practice what they learn. Our activities build self-respect, teach conflict resolution, and support the development of leadership skills. We help youth learn personal responsibility, goal setting, communication skills, and the importance of community involvement. Youth earn opportunities to go on educational/recreational trips.

How they will measure program success: We record attendance and monitor the participation levels of individual students. The "Student Leadership Rubric" is applied at the beginning of the after-school program (or soon after program enrollment for new participants), at mid-year, and at the end of the school year. We obtain grade reports as needed. Another important measure of our success comes from anecdotal evidence. We are not able to do long-range tracking on kids after they leave our program, often because the families have moved out of housing. However, a few times each year, kids return to us as adults to tell us how we made a difference in their lives. As often as possible, we include these stories in the SMHA newsletter.

Priority Areas that this program will fulfill:

Outcome/Goal 2 - All children are physically and mentally healthy.

Outcome/Goal 3 - San Marcos will have a college and career ready workforce capable of attracting industry to improve economic development and quality of life.

Outcome/Goal 5 - Increase the capacity of youth for civic involvement and leadership.

To achieve these goals, our strategies include a special focus on developing leadership skills, improving academic performance, stimulating creativity, promoting physical fitness and other healthy lifestyle choices.

Goals for the program: Our overall goal is to improve the quality of life for public housing residents, reduce dependence on welfare, and empower residents to take charge of their lives and their environment. With regard to our year-round youth programs, our goals are to improve physical and mental/emotional health, to prepare kids for college and careers, to involve kids in community life, and to develop leadership skills.

How will they know they met these goals: Program staff keep paper and digital records of all services provided and outcomes achieved for the children in our programs. Assessments of physical and mental health are based on observation by qualified staff or volunteers as well as consultations with parents. We work closely with parents to monitor school grades. Assessment of community involvement is based on observation and feedback from the community. We use a special rubric to assess the development of leadership skills.

Number of clients served yearly: 56  
Number of direct clients served ONLY in San Marcos: 56

Amount Requested: $5,000  
Commission on Children and Youth Recommendation: $4,000
San Marcos Housing Authority

**Self-Sufficiency for Families and Youth** – The SMHA Resident Services Program consists of four major initiatives: Youth Development Services, Elderly & Disabled Services, Self-Sufficiency, and Resident Organization. We work to improve quality of life, reduce dependence on the welfare system, and empower our residents to take charge of their lives and of their environment. We are requesting funds to support our efforts to help families receiving housing assistance become more self-sufficient, thereby creating a healthier atmosphere for youth development and reducing the amount of time families need housing assistance. Our vision is to make public housing a place of family healing and development—a place where families can grow stronger while they live in decent, safe homes. Participants get the tools they need to achieve self-sufficiency through housing assistance, effective case management, facilitation of support groups, and the coordination of access to local, state, and federal resources, including connections to job training and educational resources. Participants set educational goals including vocational and two-year degree programs. They learn new skills that enable them to gain employment with a living wage, manage their money more effectively, build savings, repair credit, improve family health, and develop resilience to challenges. Participants learn to take responsibility for their future.

**How they will measure program success:** We track activities and outcomes on an individual basis for families enrolled in our self-sufficiency programs. Service Coordinators enter the data on a spreadsheet for their site on a monthly basis. Administrative personnel have online access to the spreadsheets so they can monitor progress toward goals, individually and collectively. This enables them to ensure that all sites are on track to meet program goals. We produce periodic financial and programmatic reports, which we submit to the City of San Marcos, the United Way of Hays County, the U.S. Dept. of Housing and Urban Development (HUD), and other agencies as appropriate. HUD also tracks nationwide, aggregate outcomes, such as increased earnings percentages, program graduation rates, and the percentage of residents participating in self-sufficiency programs. They calculate a composite score for each housing authority. This is a new system. As it is phased in, it will be used to rank programs as a means of monitoring program success as well as awarding new or continued grants in the FSS and ROSS programs.

**Priority Areas that this program will fulfill:**
Outcome/Goal 4: Improve the overall quality of life for San Marcos families and youth
Strategy 5: Increase capacity of SM Housing Authority/Advocate for affordable housing

**Goals for the program:** Our overall goal is to improve the quality of life for public housing residents, reduce dependence on welfare, and empower residents to take charge of their lives and their environment. Specific, targeted outcomes for our self-sufficiency programs are 1) Improved Family Health & Resilience; 2) Obtain a Full-time Job; 3) Obtain a Part-time Job or Increase Earned Income; 4) Improved Quality of Life - Effective Money Management; 5) Improved Quality of Life - Increase Score on the Self-Sufficiency Matrix by 10% within 12 months; 6) Complete Individual Training and Services Plan (ITASP); 7) Move to Private Housing/No Longer Need Housing Assistance.

**How will they know they met these goals:** Service Coordinators keep paper and digital records of all services provided and outcomes achieved for the families they serve. They meet with participating families on a regular basis. Assessment of family health & resilience is based on observation and self-reporting of clients. They coordinate their efforts with SMHA property management personnel, including helping to resolve issues that jeopardize their continued housing assistance. They are able to obtain information such as family composition and income as well as when families move in and out of their site. Needs assessments are conducted for all new residents. With regard to improved quality of life, Service Coordinators review budgets and credit reports. They also use a Self-Sufficiency Matrix instrument to assess each family’s level of self-sufficiency at least once per year. ITASP completion is verified with appropriate documentation. Self-sufficiency plans are a multi-year effort for individual families so we track how many families enter and exit the program each year as well as how many were successful compared to how many either dropped out of the program or left the program for some other reason, such as eviction or termination of their contract due to non-participation.

**Number of clients served yearly:** 104
**Number of direct clients served ONLY in San Marcos:** 104
**Texas State University**

**Aquatic Science Adventure Camp** – We all learned in school that 2/3rds of the Earth’s surface is covered in water, but only 3% of that is freshwater. And of that, only a tiny fraction is available for human use; comparable to taking a single drop from a gallon jug. In Central Texas, rapid population growth coupled with inconsistent rainfall, exacerbated by climate change, leads to water conservation being discussed with ever-increasing urgency. It is no surprise that we find our water resources being stretched more with each passing decade. Training the next generation of water-wise San Martians is key to our future as a city and state. The Edwards Aquifer Research and Data Center at Texas State University was founded in the 1970’s to study and promote conservation of our region’s limited water resources. Central to that mission is the Aquatic Science Adventure Camp, which is celebrating 30 years of operation this year and is one of the longest running summer science camps in Texas. At the Aquatic Science Adventure Camp, campers spend a week on the Texas State campus and surrounding areas learning about water and the environment through an array of outdoor recreational activities and scientific investigations. Our goal at the camp is to give children a genuinely fun, engaging, and educational experience that opens their eyes to wonders of nature and inspires their innate desire to understand it. Our motto here at the camp is “Real Science, Real Fun!” because we take science learning out of the classroom and allow our campers to discover how much fun being a scientist can be! By working with active research scientists and science teachers, in university setting, we give campers a taste of what a career in science is really like.

**How they will measure program success:**

1) By tracking parents’ opinion of program results through an online survey sent out in a post-camp email.

2) By tracking the number of returning students each year.

3) Age-appropriate surveys and evaluations will be given out to camp participants to gauge knowledge retention and impact as well as to provide data to inform future directions for the camp.

**Priority Areas that this program will fulfill:** Outcome/GOAL 3 - San Marcos will have a college and career ready workforce capable of attracting industry to improve economic development and quality of life.

1. Increase high school graduation rates
2. Establish long term research of 8th grade postsecondary plans
6. Improve access and participation in “Bobcat Promise”
7. Get up to 60% high school to college admission rates
8. Improve college graduation rate of students from SCMISD
9. Advocate for local jobs that pay more than living wage

STEM (Science, Technology, Engineering, and Mathematics) fields are among the fastest growing sectors in the economy. Reaching students from underrepresented populations and introducing them to STEM fields and careers is critical for our success as a city and nation. Our program focuses on middle and early high school students because many of them are still in the process of deciding what they want to be when they grow up. Research has shown that involvement in extra-curricular science education programs has a substantial impact on college admission odds and success in college and beyond. We want to break down the divide in San Marcos between “town and gown” and get local students involved in learning in a campus setting from university faculty, staff, and students. These early impressions are key for inspiring students to pursue post-secondary education.

Outcome/GOAL 2 - All children are physically and mentally healthy.

Every day at camp, our campers will be engaging in fun and exciting outdoor recreation activities, learning new skills and discovering passions that we hope will stick with them for a lifetime. Students will learn how to paddle a kayak or raft, how to scuba dive, how to snorkel and swim in a river safely, how to walk in nature and identify plants and animals, how to explore a cave, how to climb a rock wall, and much more. We want our campers to challenge their minds and bodies each day and grow in confidence and self-worth. Our counselors and staff engage with each child to encourage them and talk with them about their lives and interests. We believe that inspiring a love of nature in children will help them stay physically and mentally healthy throughout their lifetimes.
Goals for the program: Our program is uniquely equipped to teach local students about conserving and protecting our natural resources, as well as to expose them to real scientific investigations. Our goal for our campers is that they would 1) experience what it is like to be a real scientist, 2) have a rich and novel experience that inspires a love for nature, 3) become informed citizens of our community that realize the value of our natural resources, especially the San Marcos River and the Edwards Aquifer.

How will they know they met these goals: We want to extend our outreach to local children who may not be able to afford a summer camp on their own. We will use the funding from this grant to provide scholarships (ranging in value from $349-$699) to local students to attend our program. We will award these scholarships by asking local middle and high school teachers to nominate deserving students and by working with the Hays-Caldwell Women’s Center and the San Marcos Youth Services Board to provide scholarships to their clients.

Number of clients served yearly: 230  Number of direct clients served ONLY in San Marcos: 16

Amount Requested: $5,000  Commission on Children and Youth Recommendation: $1,000

Texas State University

Autism Summer Camp – Our program, the Texas State University Autism Summer Camp is the first of its kind in San Marcos. Established in 2010, this autism camp is a partnership between the Texas State University’s Department of Health and Human Performance and San Marcos Consolidated Independent School District (SMCISD). This camp provides many children access to a quality summer camp experience designed to accommodate the special needs of children with autism. We do not turn down any child because of the severity of his/her disability. We host four 1-week camp sessions each summer. Camp counselors assist campers (1:1) in a daily schedule that provides time for dance, music, arts, crafts, games, swimming, yoga, and many other therapeutic activities. Since 2010, Texas State University Autism Summer Camp has provided a place for recreational activities for the underserved children with autism and hands-on experimental research opportunities to Texas State students. It has provided 350 children with autism aged 4-12 living in San Marcos and its surrounding areas the opportunity to participate in a developmentally appropriate therapeutic summer program. About 40 Texas State students every year volunteer at the camp as part of a service-learning project providing involved students with experiential learning to meet genuine community need. Every summer, Texas State University students serve over 3000 hours as camp counselors and work with children with autism one-on-one. The students attend training sessions and are educated in camp curriculum, motor skill assessments, and appropriate interaction skills for children with autism.

How they will measure program success: All counselors keep a journal to record their daily interactive activities with their assigned child. After each camp session, counselors submit a summary describing their overall experience with the assigned child. They write about the usefulness of the training sessions before the camp, problems that occurred during the camp sessions, ways they solved problems, and what they learned from serving the campers.

All parents/caregivers complete a survey at the end of each summer camp session. They are asked to answer questions about the impact of the scholarship to their financial needs and their child’s camp experience. Questions will include perception of savings to their budget based on cost of child care. Parents will be asked to provide examples of specifically how the savings benefited their family and questions related to the children’s camp activities, counselors, and parents’ perception about their child’s overall camp experience.

Children will be measured on their proficiency in fundamental motor skills before and after the 4-week camp. The ability to perform fine and gross motor skills will provide children with opportunities to successfully integrate into their communities.
Priority Areas that this program will fulfill: Our autism summer camp program will fulfill the SMCCY reframed Outcome/Goal 4: Improve the overall quality of life for San Marcos families and youth.

Strategies: Collaborate with SMCISD to provide over 3000 hours service to the San Marcos community to improve the quality of life for children with autism and their families.

Goals for the program: We would like to expand our program to include more children with autism to attend our summer camp with scholarship support. Our request for funding is to provide 20 low-income families with camp scholarships to meet family basic needs of child care during part of the summer and to purchase camp equipment. Through this camp, 20 low-income and underserved San Marcos children with autism will participate in our program at no cost. Each family will receive a scholarship to defray the high cost of child care during the summer and the funds will also be used to purchase camp equipment. Twenty-five children with autism from low income families attend 2 weeks of camps is equivalent of 50 hours of one on one skill-based instruction (e.g., adapted aquatic swimming, yoga, dance, and other social, communication and physical activities) for 2-week period. Parents will receive information about other community-based resources to assist children as well. More children attending our camp indicates that more counselors are needed since our camp is 1:1. Therefore, we will use funds to recruit more camp counselors to work with children 1:1 from other funding source.

How will they know they met these goals: We will meet our goal by giving out twenty $100 scholarships to San Marcos children with autism to attend our camp, use funds to purchase camp equipment, and hire camp counselors to better service children with autism at 1:1 ratio.

Number of clients served yearly: 60
Number of direct clients served ONLY in San Marcos: 45

Amount Requested: $5,000
Commission on Children and Youth Recommendation: $4,000

Texas State University

College Access Program – The College Access Program is a summer camp that is designed to assist underserved students better understand the process of successfully applying to college. In addition, students will learn about key differences between college and high school so that they can more readily make a successful transition. Our College Access Program will run June 5th-8th. Our services target 35 High school students who will be sophomores, juniors and seniors. We will target 20 students from SMHS and 15 from Hays. The services include the following:

- Increasing knowledge about admissions requirements for HS students
- Academic Achievement in College vs. HS
- Writing a powerful essay to get into college
- Resume Writing
- College Preparation
- College Life

How they will measure program success: We will measure short term success by the number of students who enroll in our camp program SMCISD. We will then measure success by subsequent application to college and filling out a FAFSA form during senior year or enrollment. We will also measure short term success by a satisfaction survey of students to determine level of knowledge and information they gained by attending the camp.

Priority Areas that this program will fulfill: Our proposal fulfills Priority three, Strategies 6 and 7. Strategy Six is to increase college access to 60 percent in San Marcos. Currently, according to the Texas Priority Rating System, San Marcos CISD has a direct high school to college enrollment of 38 percent. To reach the stated goal of 60 percent would require an additional 22 percent increase. This would mean an increase of 60-70 graduating seniors would need to elect to attend college on a given year. Modest increases in the rates of college attendance (5 percent) could be attained toward the goal if we increase the college going rate by 15 to 20 students in a given year. Achievement of this strategy is measured by looking at college going rates of THECB data.
Our proposal addresses Strategy Seven, increasing the number of college graduates in San Marcos. Students who are better prepared academically and understand expectations of college life are much more likely to be successful.

**Goals for the program:**
- Increase college access for underserved students
- Increase college success for first year students.

**How will they know they met these goals:** We will know we have met our first goal by examining the number of college applications that we have assisted or completed during an Academic Year. We will know we met the second goal by examining if first year students are retained after first year of college to second year.

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<td>Amount Requested: $5,000</td>
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**Texas State University**

**Caminitos Collaborative- Fine Motor Progression** – This program will be centered on engaging 4 and 5 year old preschool children who are lacking in fine motor skills in a mastery motivational climate (MMC). The children will be pre and post tested using Movement ABC. A curriculum will be developed based on pretest outcomes using a MMC. Research has shown that utilization of a MMC, allows children to have both control over their learning as well as develop confidence in weak areas by allowing them to choose where they need the majority of the work. The services will provide extra fine motor work for low income children. Often times, children who are of low socio economic status struggle in fine motor control when compared to their counterparts. Low abilities in fine motor control are often linked to low literacy, math, and gross motor progressions.

**How they will measure program success:** Success will be defined as children gaining fine motor skills at a faster rate when compared to previous years as well as MMC being incorporated into classrooms at Bohnam Prekindergarten. Measurement will be gained through use of the Movement ABC (quantitative) and the qualitative data assessed from the observations. In addition, positive comments from faculty on the achievements of children through frequent “check ins” will also be a measure of success.

**Priority Areas that this program will fulfill:** Goal 1: Strategies 1 and 2- This program will continue and strengthen the relationship between Texas State and Bohnam Prekindergarten. Once the data is collected, The program coordinator will share the findings with teachers and administration to hopefully strengthen the need for MMC in early childhood. By showing the data that MMC can provide where fine motor control is concerned, this should prompt more teachers to use this in their classrooms when compared to more traditional methods of fine motor instruction.

Goal 2: Strategy 2 This program will assess the activities of children that will be a precursor the future progression of other skills. This program will give information on two areas; deficiency in fine motor skills and does MMC in early childhood work where fine motor skills are concerned.

**Goals for the program:** The goals for the 2018-2019 year would be as follows: quantitative change in fine motor measures from pre to post testing; children show qualitative changes toward fine motor behaviors by way of attitudinal changes in and out of the classroom; and teachers at Bohnam Prekindergarten incorporate MMC into classrooms into a portion of the day.

**How will they know they met these goals:** The children will be tested using Movement ABC. This is a valid and reliable measure that measures fine motor control of preschool children. This measure will show the quantitative changes in the fine motor skills. Qualitative changes will be tabulated through observation from graduate assistants. These assistants will be responsible for both the pre and post testing, therefore they will be aware of attitudinal changes throughout the program. These behaviors will be tallied during fine motor intervention sessions using observational checklists. For goal three, the program coordinator will plan an after school in-service to introduce MMC and show the positive outcomes.
associated with the incorporation of this practice. Hopefully, this will instill the value and teachers will incorporate MMC into the classroom. During the middle of the year, the program coordinator will check with teachers and offer assistance in changing activities into MMC if needed.

Number of clients served yearly: 100

Number of direct clients served ONLY in San Marcos: 100

Amount Requested: $5,000

Commission on Children and Youth Recommendation: $4,000

Texas State University

Goal:POST – Texas State University, the COSM, and Miller Middle School are partners in Goal:POST, an engaging after-school program that provides opportunities for Miller Middle School students to achieve academic success, increase cognitive and social skills and improve physical and emotional health. Goal:POST affords Miller students opportunities to work in small groups with Texas State University students to complete homework and, through intentional initiatives facilitated by Texas State students, meet new friends, play movement-oriented games, and acquire important cognitive and social skills.

How they will measure program success: Success for Goal:POST will be measured using quantitative and qualitative data to assess the goals stated above. We will gather data using observation and interviewing, but primarily through a short survey administered to both student and parent at the end of each semester. The survey will assess each of the goals as well as general satisfaction markers that will indicate how well we are serving the community. In addition, our program will be successful if we are consistently drawing more than 15 Miller students per week. We will measure this through an attendance log. Lastly, the success of GP depends on our ability to create a positive experience for each of the entities involved- the community (Miller Middle School), the University, the San Marcos Parks and Recreation Dept.-Youth Services Division. This outcome will be assessed through frequent meetings between the three entities and open lines of communication, as well as surveys conducted with Texas State Students.

Priority Areas that this program will fulfill: Outcome/Goal 2: GoalPOST participants engage in physical activity for the majority of each 2-hour program meeting. This activity is non-traditional and emphasizes recreation above fitness. As such, participants may participate in aerobic or callisthenic exercises for over an hour without even realizing they’ve done so because they thought they were just playing tag/capture the flag/etc.

Outcome/Goal 3, Str 1&7: Texas State University students are actively involved with GoalPOST as facilitators, homework helpers, etc. They act as leaders for the program but also engage socially with participants. This type of interaction between college students and middle schoolers has been shown to be a positive force when it comes to the likelihood of those middle schoolers going on to attend college- young students who interact with college students and can relate to them socially are more likely to see college as a realistic option. Homework tutoring at Goal POST also helps with current academic success!

Outcome/Goal 4: Administration and facilitation of the GoalPOST program is possible only through a collaborative partnership involving Texas State University, San Marcos Parks and Recreation-Youth Services Division and San Marcos CISD. This interagency collaboration- as well as the Youth Master Plan funding- has allowed all parties to maximize their separate resources and reach a segment of San Marcos’ youth population that may otherwise be underserved during afterschool time.

Goals for the program: 1) Parents of 90% of Miller students will agree or strongly agree that Goal:POST has provided a safe after-school social environment for their child(ren). 2) Parents of 75% of Miller students will agree or strongly agree that Goal:POST has improved their student’s physical or emotional health. 3) At least 75% of students involved in Goal:POST annually will agree or strongly agree that Goal:POST provided a fun learning environment.

How will they know they met these goals: In the order above-

1) A parent survey will be administered each semester and parents of 90% of Miller students, participating in Goal:POST will agree or strongly agree that Goal:POST has offered a safe after-school social environment for their student. 2) A
parent survey will be administered each semester and parents of 75% of Miller students, participating in Goal:POST will agree or strongly agree that Goal:POST has improved their student’s physical or emotional health. 3) A parent survey will be administered each semester and parents of 75% of Miller students, participating in Goal:POST will agree or strongly agree that goal:POST provided a fun learning environment. Additionally, 75% of Texas State students, participating in GoalPOST will report that Goal POST was a learning environment for them as well.

**Number of clients served yearly:** 43  
**Number of direct clients served ONLY in San Marcos:** 43  
**Amount Requested:** $5,000  
**Commission on Children and Youth Recommendation:** $4,000

**Texas State University**

**Spring Lake 7th grade Youth Initiative** – The Meadows Center for Water and the Environment will offer a comprehensive program for the 7th graders of San Marcos ISD which will encompass a pre-lesson, field trip, and post-lesson designed to improve student and teacher engagement. In the pre-lesson, students will do a writing activity and a lesson from Texas Aquatic Science. Students will prepare college readiness questions for their Texas State University student mentor, who will be leading their field trip. The on-site field trip will involve the college readiness mentoring, hand on life science activities that are TEKS aligned, and a glass-bottom boat ride. The post-lesson will include a follow-up journaling activity on their experience with their college mentor and a lesson from the Texas Aquatic Science curriculum. [https://texasaquaticscience.org/](https://texasaquaticscience.org/). This program seeks to address the ‘nature deficit’ that affects children and families within our local community, and to inspire youth to conserve and protect natural resources, with an emphasis on the environment in San Marcos. It is also designed to foster inquiry into life sciences and STEM subjects more broadly.

**How they will measure program success:** We will keep track of the number of students that attended the field trip. Students will be given a pre and post questionnaire to evaluate the success of the program. Teacher will be given a survey of their satisfaction with the experience. Results will be tabulated and reported. Feedback will be used to modify the program as needed and used to pursue funding for the programs continuance.

**Priority Areas that this program will fulfill:**  
**Outcome/Goal 2:** Our program will help ensure all children are physically and mentally healthy by increasing access to developmental activities, opportunities, and supports to the 7th graders of San Marcos ISD and ensuring access across the community. We will be increasing access to Spring Lake, the headwaters of the San Marcos River by providing scholarships to attend a field trip that they would not otherwise be able to experience. This program will allow students to know that our facility is free and open to the public year round. Additionally, we will be improving student and teacher engagement by providing them with engaging curriculum and taking them out of the classroom, bridging informal and formal learning environments. Our curriculum meets quality standards by being TEKS aligned. This experience will be place-based learning on Texas State University campus, taught by college students.

**Outcome/Goal 3:** We will help ensure that San Marcos will have a college and career ready workforce capable of attracting industry to improve economic development and quality of life by instilling students with excitement for exploring college opportunities. This program will be on Texas State University campus and our student workers will act as mentors providing students with an introduction to possible on-campus jobs that are available at Texas State University. Also, our workers can introduce the students to the possibility of Federal work study and financial aid, which many of our workers receive.

**Outcome/Goal 4:** Our program will help improve the overall quality of life for San Marcos families and youth by improving communications, coordination, and community engagements in support of the children and youth. This will increase community awareness about our available programs and services.

**Goals for the program:**  
**Goal 1:** Provide a free fieldtrip in an informal setting for all of the 7th graders in the San Marcos ISD.  
**Goal 2:** Provide youth with high-quality, developmentally appropriate out-of-school activities that help them develop academically, emotionally and physically and addresses the children’s nature deficit disorder.  
**Goal 3:** Evaluate
and validate the success of informal science education along with the need for with pre and post tests. Goal 4: Promote college readiness for San Marcos youth and expose them to opportunities that they may not know is available to them.

How will they know they met these goals: The free fieldtrip will be offered between the months of September 2018 and February 2019. The Meadows Center currently offers a free field trip to the 4th graders of San Marcos and would like to offer something similar to the 7th graders and include some college preparatory skills. We currently employ twenty college students as environmental interpreters, several who are freshman and can offer good insight for young students getting ready to begin their college planning. We have good connections with the San Marcos schools and have been asked by one of the Middle School science teachers to offer something similar to our free field trip for the 4th graders to the local middle schools. We have interest from community groups such as the Mermaid Society, who can offer an educational station during this field trip on river guardianship with their mascot Maya the Mermaid.

Number of clients served yearly: 111,926
Number of direct clients served ONLY in San Marcos: 14,327
Amount Requested: $4,785
Commission on Children and Youth Recommendation: $3,785

Texas State University

Spring Lake Outdoor Education Program (SLOEP) – Texas State University, the City of San Marcos, The Meadows Center, and Goodnight Middle School are partners in Spring Lake Outdoor Education Program (SLOEP). SLOEP is an after-school program that provides outdoor and experiential education opportunities for Goodnight Middle School students. SLOEP teaches participants various outdoor activities while incorporating teamwork, decision making, interpersonal skills, and the improvement of physical and emotional health. SLOEP offers Goodnight students the chance to work with Texas State University students, meet new friends, and learn about the environment. SLOEP is a free after school program offered for eight weeks each semester to up to 40 students from Goodnight Middle School. The program will run from the time students get out of school to 6:00 pm. This critical after-school time provides additional support to families who may need to work extended hours. During the after-school program, students will have the opportunity to receive homework tutoring from Texas State College students. After homework time, students will participate in an outdoor activity. Each day 6-12 Texas State University students from the Recreation Administration Program’s leadership class will help facilitate the outdoor experiences. Activities include kayaking, hiking, geocaching, and mountain biking to name a few. These activities will offer students outdoor experiences that may become a healthy option throughout the aging process. SLOEP activities will also challenge the students physically and mentally by making them communicate and engage with one another – honing social skills.

How they will measure program success: Each semester, SLOEP staff administer a survey that helps us to understand the perceptions of participants and their parents. The survey is described above in our measurements section.

In addition to the satisfactions survey, research is being conducted during the SLOEP program. We are measuring nature connectedness and attitudes towards the environment. We will continue to assess these constructs and examine their impact on student abilities to manage natural resources.

We will also garner feedback on activities from the students and adjust the activities based on the student feedback. We will also measure success utilizing weekly attendance records. SLOEP will be successful if attendance of our program is consistently more than 15 Goodnight Middle School students per week. This is tracked through an attendance log. We will also measure success through an open communication with Texas State, Goodnight Middle School, and San Marcos Parks and Recreation - Youth Services.

Priority Areas that this program will fulfill: The below statements are based on the new reframed priority areas.

Outcome/Goal 2 – SLOEP participants engage in many physical activities. Physical activity is approached from a non-traditional perspective that values leisure. Students may run 3 miles while geocaching but do not perceive the negative psychological impacts sometimes associated with traditional exercise – they think it is fun.
Outcome/Goal 3, Strategy 1 and 7 – Texas State University college students facilitate SLOEP programming, help students with homework, and engage socially with middle school students. These types of interactions have been shown to have a positive impact on the likelihood of students attending college. Students who meet and relate to college students are more likely more likely to see themselves as a candidate for attending college. Additionally, the homework tutoring done at SLOEP will contribute to higher grades.

Outcome/Goal 3, Strategy 9 – Many local jobs require knowledge of the local environment. Environmental education occurring at SLOEP may serve as a foundation for students who want to work one of the many local jobs that require environmental knowledge.

Outcome/Goal 4, Strategy 2 – SLOEP has established interagency agreements to utilize local resources, some of which are not readily available to the public. Students who attend SLOEP are able to experience kayaking on Spring Lake – access that is very limited. SLOEP also operates on Spring Lake Preserve, The Meadows Center, and Goodnight Middle School properties.

**Goals for the program:**

1) SLOEP will provide meaningful learning experiences intended to introduce students to outdoor recreation and resource management. Our programs will be focused on natural resource management.

2) SLOEP is designed to foster interactions between Texas State University students and Goodnight Middle School Students. We believe that these relationships will enhance social awareness and self-confidence for middle school students.

3) Through the “Project Wild” curriculum that is utilized in SLOEP, we intend to help students improve many job-related skills such as problem-solving.

4) Project Wild is directly correlates with Texas Essential Knowledge and Skills and is an excellent way to help expand the walls of the schoolhouse and help students apply their academic knowledge to their lived experience.

**How will they know they met these goals:** In the order above:

1) A youth survey will be administered at the end of each semester and 75% of Goodnight Middle School students will agree or strongly agree that SLOEP has provided an engaging way for them to learn about resource management through experiences in the outdoors.

2) A youth survey will be administered at the end of each semester and 75% of Goodnight students will agree or strongly agree that SLOEP has increased their self-confidence and social awareness through their engagement with peers and college students.

3) A youth survey will be administered at the end of each semester and 80% of Goodnight students will agree or strongly agree that SLOEP has enhanced their ability to solve problems through their engagement in the "Project Wild" curriculum.

4) A youth survey will be administered at the end of each semester and 80% of Goodnight students will agree or strongly agree that SLOEP has helped them connect with or apply their academic knowledge.

**Number of clients served yearly:** 50

**Number of direct clients served ONLY in San Marcos:** 50

**Amount Requested:** $5,000

**Commission on Children and Youth Recommendation:** $4,000
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<tr>
<th>Agency</th>
<th>Program</th>
<th>Ages Served</th>
<th>Date(s) of program</th>
<th>YMP Priority Area or Reframed Outcome/Goal Statement</th>
<th>Requested Amount</th>
<th>SMCCY Recommendation</th>
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<td>Early Childhood Summit</td>
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<td>13</td>
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File #: Res. 2018-63R, Version: 1

AGENDA CAPTION:
Consider approval of Resolution 2018-63R, approving the award of a term contract to Integrated Generator Systems, Inc., for generator maintenance, repair services and parts (IFB 218-210) in the amount not to exceed amount of $140,000 and authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City and declaring an effective date.

Meeting date: May 1, 2018

Department: Community Services Department - Rodney Cobb, Executive Director of Community Services (by Lynda Williams, Purchasing Manager)

Amount & Source of Funding
Funds Required: $35,000 for FY2018
Account Number: 10001280 52535
Funds Available: $47,129.49
Account Name: GF Special Services Fund - Facility Maintenance

Fiscal Note:
Prior Council Action: Generator Maintenance Service was awarded to Entech Sales and Services in January 2017. Repair and parts were not a part of this award.

City Council Strategic Initiative: [Please select from the dropdown menu below]
City Facilities
Goal #1 Plan for Facilities Planning
Goal #5 Maintain & Improve City's Infrastructure

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
Background Information:
This is an Annual Contract for maintenance, repair and parts for City facility generators. The initial term of the contract is anticipated to be effective on May 2, 2018, through April 30, 2019.

Within the terms and conditions of the contract, the City has the option to extend for three (3) additional one (1) year periods. Contract extensions may be awarded administratively in the form of a letter of agreement signed by the Purchasing Manager.

Recommendation:
On March 22, 2018, ten (10) bids were received for Generator Maintenance, Repair and Parts for Facilities, Bid # 218-210. Thane Newman, Community Services Business Operations Manager, reviewed the bids, and in consideration of vendor knowledge, experience, repair service and parts rates recommends award to the bidder, Integrated Generator Systems, Inc., located in Adkins, Texas, who provides the lowest price and best value.
# BID TABULATION

Generator Maintenance, Repair and Parts Facilities  
March 22, 2018 at 2:00 P.M.

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<th>Bidder Name</th>
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## BID TABULATION
Generator Maintenance, Repair and Parts Facilities
March 22, 2018 at 2:00 P.M.

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</tr>
<tr>
<td>San Antonio, TX</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

WITNESSED BY: [Signature]
[Signature]
RESOLUTION 2018-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING THE AWARD OF A CONTRACT FOR GENERATOR MAINTENANCE, REPAIR SERVICES AND PARTS (IFB 218-210) FOR THE ANNUAL PURCHASE AMOUNT OF $140,000.00 FROM INTEGRATED GENERATOR SYSTEMS, INC.; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE PURCHASE DOCUMENTS ON BEHALF OF THE CITY AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The award of a contract for generator maintenance, repair services, and parts (IFB 218-210) for the annual purchase amount of $140,000.00 from Integrated Generator Systems, Inc. is approved.

PART 2. The City Manager or his designee is authorized to execute the appropriate purchase documents on behalf of the City.

PART 3. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED this the 2nd day of May 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
AGENDA CAPTION:
Consider approval of Resolution 2018-64R, approving the award of a contract for project site rehabilitation, underdrain piping replacement, and new landscaping for the Hutchison Street Biofiltration Pond Improvements Project (IFB 218-153) for the total purchase amount of $99,888.00 from M2 Federal, Inc.; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City and declaring an effective date.

Meeting date: May 1, 2018

Department: Capital Improvements - Laurie Moyer (By Lynda Williams, Purchasing Manager)

Amount & Source of Funding
Funds Required: $99,888
Account Number: FY128
Funds Available: $99,888
Account Name: Hutchison Water Quality Pond Reconstruction

Fiscal Note:
Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Stormwater
Goal #5 Maintain & Improve City's Infrastructure
Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☒ Environment & Resource Protection - Public & Private Sector Partnership to Protect Water Quality & proper development in San Marcos and Blanco Rivers
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Habitat Conservation Master Plan

Background Information:
The biofiltration pond built with Downtown Improvement Project the project has not worked as originally anticipated. A soils investigation report was conducted to evaluate the underdrain system and biofiltration media. Through this effort and better knowledge about the design and construction of these types of BMP’s, multiple areas for improvement were identified.

The scope of work for this Project includes the rehabilitation of this biofiltration pond with new engineered soil media, underdrain piping replacement, new landscaping and all appurtenances as specified. After the pond has been restored, it will be able to drain within 72 hours when full.

On March 22, 2018 the City received four (4) bids, solicited according to city policy and state law. Upon review, City staff and the design engineer Lee Sherman of Complete Watershed Solutions, LLC recommend award to M2 Federal, Inc. for the amount of $99,888. The apparent low bidder, Construction Eco Services, is considered Non-Responsive for failing to submit a Bid Bond and Statement of Bidder’s Qualifications.

The City has been approved for $85,000 in grant funds toward this reconstruction through a 319 Grant submitted by the Upper San Marcos Watershed Initiative and with assistance from the EAA - HCP funding.

Council Committee, Board/Commission Action:
Click or tap here to enter text.

Alternatives:
Click or tap here to enter text.

Recommendation:
Recommendation Letter attached.
RESOLUTION 2018- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING THE AWARD OF A CONTRACT FOR PROJECT SITE REHABILITATION, UNDERDRAIN PIPING REPLACEMENT, AND NEW LANDSCAPING FOR THE HUTCHISON STREET BIOFILTRATION POND IMPROVEMENTS PROJECT (IFB 218-153) FOR THE TOTAL PURCHASE AMOUNT OF $99,888.00 FROM M2 FEDERAL, INC.; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE PURCHASE DOCUMENTS ON BEHALF OF THE CITY AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The award of a contract for project site rehabilitation, underdrain piping replacement, and new landscaping for the Hutchison Street Biofiltration Pond Improvements Project (IFB 218-153) for the total purchase amount of $99,888.00 TO M2 Federal, Inc. is approved.

PART 2. The City Manager or his designee is authorized to execute the appropriate purchase documents on behalf of the City.

PART 3. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED this the 2nd day of May 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
April 6, 2018

RE: Hutchison Street Biofiltration Pond Recommendation of Award

Mr. Rey Garcia, P.E.
City of San Marcos
630 E. Hopkins
San Marcos, TX 78666

Dear Mr. Garcia,

Please see the below regarding the bid results and contractor recommendation.

Bid Results:

Attached is the detailed Bid Tabulation for the three lowest bids received March 29, 2017 for the referenced project. When considering all items, including additive alternates, the lowest bid received was from M2 Federal ($99,888), followed by C3 Environmental ($120,503), and JBS Underground ($224,290).

Background:

The E. Hutchison Street Biofiltration Pond project consists of rehabilitating an existing pond that has not performed as originally designed. Issues with the underdrain system were identified by CWS and a repair has been designed to improve functionality and ability to maintain. This project involves construction of green stormwater infrastructure in an area draining to critical endangered species habitat and the contractor must have a specialized skill set to ensure success. For example, soils must be properly compacted or scarified per the design, special materials like biofiltration media and underdrains must be placed correctly, work must be protected when rain floods the work site, and proper dewatering and provision of erosion/sedimentation controls are needed to prevent sediment discharge to critical habitat. Therefore, contractor references were checked carefully considering experience with projects of comparable size and scope.

Contractor Qualifications:

The low bidder (M2 Federal) has been previously vetted and is currently providing construction services on a similar facility at City Park. M2 Federal has completed more than three projects in similar in size and scope including stormwater management and facilities in environmentally sensitive areas. References were successfully contacted and confirmed M2 Federal’s experience and qualifications.
Contractor Recommendation:

Based on the information received, we recommend award of a contract for the referenced project to M2 Federal for the Bid amount of $99,888.00, which will include all items bid upon including the additive alternates.

Please contact me if you have any questions about this recommendation.

Lee Sherman
President, Complete Watershed Solutions LLC

Attachment: Bid Tabulation
<table>
<thead>
<tr>
<th>Item No.</th>
<th>Spec Reference</th>
<th>Unit Description</th>
<th>Est. Quantity</th>
<th>Unit Price</th>
<th>Unit Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>C3</td>
<td>JBS</td>
</tr>
<tr>
<td>1</td>
<td>311-S-R</td>
<td>Excavation, Plan Quantity</td>
<td>79 CY</td>
<td>$ 60.00</td>
<td>$ 4,740.00</td>
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<tr>
<td>2</td>
<td>325-S-A</td>
<td>Embankment, Goose Material</td>
<td>6 CY</td>
<td>$ 470.00</td>
<td>$ 2,820.00</td>
</tr>
<tr>
<td>3</td>
<td>403-S-Y</td>
<td>Concrete for Structures</td>
<td>5 CY</td>
<td>$ 425.00</td>
<td>$ 2,125.00</td>
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<tr>
<td>4</td>
<td>433-C</td>
<td>P.C. Concrete Driveway (Type 2) Broom Finish for Slip Resistance</td>
<td>326 SF</td>
<td>$ 9.00</td>
<td>$ 2,940.00</td>
</tr>
<tr>
<td>5</td>
<td>500-A06</td>
<td>Pipe, 6&quot;, Schedule 40 PVC (all depths), Including Excavation and Backfill</td>
<td>24 LF</td>
<td>$ 17.00</td>
<td>$ 408.00</td>
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<tr>
<td>6</td>
<td>551</td>
<td>Pipe Undertakings (Type 11)</td>
<td>90 LF</td>
<td>$ 17.00</td>
<td>$ 1,330.00</td>
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<tr>
<td>7</td>
<td>610-S-A</td>
<td>Protective Fencing Type A Chain Link Fence (Typical Application: High Damage Potential)</td>
<td>162 LF</td>
<td>$ 4.00</td>
<td>$ 648.00</td>
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<tr>
<td>8</td>
<td>610-S-E</td>
<td>Tree Trunk Protection, Wood Planking</td>
<td>1 EA</td>
<td>$ 800.00</td>
<td>$ 800.00</td>
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<tr>
<td>9</td>
<td>610-R</td>
<td>Removal of Existing Trees</td>
<td>2 EA</td>
<td>$ 800.00</td>
<td>$ 1,600.00</td>
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<tr>
<td>11</td>
<td>620-B</td>
<td>High Flow Filter Fabric</td>
<td>290 SF</td>
<td>$ 7.50</td>
<td>$ 2,175.00</td>
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<tr>
<td>11</td>
<td>640-B</td>
<td>Mortared Rock Wall Repair</td>
<td>15 SF</td>
<td>$ 65.00</td>
<td>$ 975.00</td>
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<td>11</td>
<td>641-S</td>
<td>Stabilized Construction Entrance</td>
<td>1 EA</td>
<td>$ 1,200.00</td>
<td>$ 1,200.00</td>
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<tr>
<td>12</td>
<td>648-B</td>
<td>Mulch Sock</td>
<td>400 LF</td>
<td>$ 5.75</td>
<td>$ 2,300.00</td>
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<tr>
<td>13</td>
<td>701-S-T</td>
<td>Temporary Fence, 8 Foot high, Type Chain Link</td>
<td>178 LF</td>
<td>$ 6.00</td>
<td>$ 1,068.00</td>
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<td>15</td>
<td>805-BCP</td>
<td>C.I.P. Project Sign</td>
<td>1 PR</td>
<td>$ 750.00</td>
<td>$ 750.00</td>
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<td>16</td>
<td>805-CD</td>
<td>Barricades, Signs, and Traffic Handling</td>
<td>60 CD</td>
<td>$ 31.00</td>
<td>$ 1,860.00</td>
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<tr>
<td>17</td>
<td>900-6B-1A</td>
<td>Planting Type 3 Gal Containers</td>
<td>210 EA</td>
<td>$ 80.00</td>
<td>$ 16,800.00</td>
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<td>18</td>
<td>900-6B-1B</td>
<td>Planting Type 1 Gal Containers</td>
<td>80 EA</td>
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<td>19</td>
<td>900-6B-1C</td>
<td>Planting Type 4 Containers</td>
<td>600 EA</td>
<td>$ 15.00</td>
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<tr>
<td>20</td>
<td>900-6B-2</td>
<td>Irrigation System</td>
<td>1 LS</td>
<td>$ 5,500.00</td>
<td>$ 5,500.00</td>
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<tr>
<td>21</td>
<td>900-6B-3A</td>
<td>Hardwood Mulch</td>
<td>10 CY</td>
<td>$ 100.00</td>
<td>$ 1,000.00</td>
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<td>22</td>
<td>900-6B-3B</td>
<td>Gravel Mix</td>
<td>20 CY</td>
<td>$ 85.00</td>
<td>$ 1,700.00</td>
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<tr>
<td>23</td>
<td>900-6B-4A</td>
<td>Management Practices</td>
<td>160 SY</td>
<td>$ 32.00</td>
<td>$ 5,120.00</td>
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<tr>
<td>24</td>
<td>SS 660</td>
<td>Biofiltration Media</td>
<td>61 CY</td>
<td>$ 75.00</td>
<td>$ 4,575.00</td>
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<tr>
<td>25</td>
<td>SS 7290-A</td>
<td>Cofferdam and Site Dewatering</td>
<td>1 LS</td>
<td>$ 25,500.00</td>
<td>$ 25,500.00</td>
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<td>26</td>
<td>SS 680</td>
<td>Landscape Gravel</td>
<td>3 CY</td>
<td>$ 150.00</td>
<td>$ 450.00</td>
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<td>27</td>
<td>SS 8000</td>
<td>Polymer Enhanced Fiber Filtration Tube</td>
<td>6 EA</td>
<td>$ 225.00</td>
<td>$ 1,350.00</td>
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<td>28</td>
<td>701-S-M</td>
<td>Total Mobilization Payment</td>
<td>1 LS</td>
<td>$ 500.00</td>
<td>$ 500.00</td>
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<td>28</td>
<td>Supp Conditions</td>
<td>Contingency</td>
<td>1 LS</td>
<td>$ 5,000.00</td>
<td>$ 5,000.00</td>
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<tr>
<td>Alt. 1</td>
<td>SP 608-5</td>
<td>Extended Landscape Maintenance - 2 Years</td>
<td>1 LS</td>
<td>$ 14,000.00</td>
<td>$ 14,000.00</td>
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Total $ 106,503.00 $ 157,890.00 $ 77,888.00

Total + Alt. $ 120,503.00 $ 224,290.00 $ 99,888.00
## BID TABULATION

Hutchison Street Biofiltration Pond Improvements  
March 22, 2018, at 2:00 P.M.

### IFB 218-153

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Total Base Bid</th>
<th>Total Base Bid Plus Add. Alt.</th>
<th>Bid Bond</th>
<th>SBQ</th>
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<tr>
<td>Construction Eco Services</td>
<td>$60,427.33</td>
<td>$70,027.33</td>
<td>No</td>
<td>No</td>
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<td>Houston, TX</td>
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<tr>
<td>JBS Underground, LLC</td>
<td>$157,890.00</td>
<td>$224,290.00</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Austin, TX</td>
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<tr>
<td>C-3 Environmental Specialties, LP</td>
<td>$106,775.00</td>
<td>$120,775.00</td>
<td>Yes</td>
<td>Yes</td>
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<td>Schertz, TX</td>
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<tr>
<td>M2 Federal Inc</td>
<td>$77,888.00</td>
<td>$99,888.00</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>San Marcos, TX</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

WITNESSED BY: [Signature]

[Signature]

[Signature]
NOTE:
1. POND TO REMAIN OFFLINE DURING CONSTRUCTION AND UNTIL PERMANENT EROSION CONTROL IS IN PLACE AND PLANTS ARE WELL ESTABLISHED.
2. DEWATERING MUST OCCUR BEFORE ANY CONSTRUCTION ACTIVITY AND NO SEDIMENT LADEN WATER WILL BE DISCHARGED TO THE SAN MARCOS RIVER.

CONTRACTOR TO POWER WASH STAGING AREA AND ACCESS PATH AFTER FINAL USE.
AGENDA CAPTION:
Consider approval of Resolution 2018-65R, approving an amendment of the current Meet and Confer Agreement between the San Marcos Professional Firefighters Association Local #3963 and City of San Marcos to provide for the establishment of the Fire Marshal’s Office within the Fire Department and authorize the Fire Chief to hire a Fire Marshal from outside the Department’s classified service; and declaring an effective date.

Meeting date: May 1, 2018

Department: Fire Department, Chief Les Stephens, Fire Chief

Amount & Source of Funding
Funds Required: $42,000-$72,000 for full-year worth of salary
Account Number: Budget Amendment will be brought back May 15, 2018
Funds Available: Click or tap here to enter text.
Account Name: Click or tap here to enter text.

Fiscal Note:
Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☒ Not Applicable
Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

Background Information:

In most cities, the Fire Marshal directly reports to the Fire Chief as a member of the Fire Department. Currently, the Fire Marshal directly reports to the Neighborhood Services Director and the City has two dedicated positions dedicated to this function. The City for some time has wanted to reassign this position to directly report to the Fire Department. In order to accomplish this, the Meet and Confer agreement needs to be amended in order to address the hiring procedures for the Fire Marshal position.

Under the proposed amendment, the Fire Chief will have the ability to hire an experienced Fire Marshal from outside of the department and that position will not be considered as a civil service position. His ability to hire from outside the City will stay in place until May 1, 2023. After this time period, the City should have civil service fire personnel trained to a level whereby an in-house fire personnel will be able to step into the Fire Marshal function on behalf of the City.

The San Marcos Professional Firefighter’s Association is in agreement with the proposed language and have ratified this agreement through a vote of their association.

In February of 2018, the two fire marshal positions resigned from the City of San Marcos. The City has recently hired a very experienced Interim Fire Marshal to step in while we try to hire a full-time position. This Interim Fire Marshal is interested in the full-time position once this amendment is approved. He has performed a full review of what resources are needed to address this function properly within the City of San Marcos. We have evaluated that analysis and recommend that 4 dedicated positions be allocated to the Fire Marshal function. We have those positions available in the City staffing tables and are recommending they be reallocated to the Fire Marshal function. The salary impact to adjusting the functional responsibilities of the associated personnel would run between $42,000 and $72,000 depending on the salaries necessary to hire an experienced Fire Marshal. The next step if this amendment were approved, the City would bring back a budget amendment to adjust the staffing personnel for which the net effect will be 0 but the salary impact will be included with a range between $42,000 and $72,000. A white paper discussing the proposed functions of the Fire Marshal personnel is included as an attachment to this agenda item. Many of these functions are not being performed due to an inadequate number of personnel.

Council Committee, Board/Commission Action:

Click or tap here to enter text.
File #: Res. 2018-65R, Version: 1

Alternatives:
Click or tap here to enter text.

Recommendation:
City staff recommends the approval of the Fire Meet and Confer Amendment.
RESOLUTION NO. 2018-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN AMENDMENT OF THE CURRENT MEET AND CONFER AGREEMENT BETWEEN THE SAN MARCOS PROFESSIONAL FIREFIGHTERS ASSOCIATION LOCAL #3963 AND CITY OF SAN MARCOS TO PROVIDE FOR THE ESTABLISHMENT OF THE FIRE MARSHAL’S OFFICE WITHIN THE FIRE DEPARTMENT AND AUTHORIZE THE FIRE CHIEF TO HIRE A FIRE MARSHAL FROM OUTSIDE THE DEPARTMENT’S CLASSIFIED SERVICE; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The San Marcos City Council hereby approves the attached amendment to the Meet and Confer Agreement between the San Marcos Professional Firefighters Association and the City of San Marcos to add a new Article 18 – Fire Marshal’s Office – to establish the Fire Marshal’s Office within the Fire Department and authorize the Fire Chief to hire a Fire Marshal from outside the Fire Department’s classified service.

PART 2. This resolution shall be in full force and effect from and after its passage.

ADOPTED on May 1, 2018

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
ARTICLE 18
FIRE MARSHAL’S OFFICE

The Association has requested that the Fire Marshal’s Office function be located in the Fire Department since the first Meet and Confer negotiation. The City has an opportunity to reorganize the Fire Marshal's Office to the Fire Department.

Challenges to the move include the lack of qualified personnel in the department’s classified service. This section adopts provisions to enable the transition.

1. Establishing the Fire Marshal’s Office (Initial three years):
   A. To develop the Fire Marshal’s Office operations requires an experienced Fire Marshal. To accomplish this, the Fire Chief shall have the right to hire a Fire Marshal outside of the department/classified service.
   B. This appointed Fire Marshal will not be a member of the classified service at appointment and will not have the protections of civil service at employment or for the duration of employment.
   C. Should the Fire Marshal hired as authorized in 1A above separate employment from the position of Fire Marshal prior to serving three years, the Fire Chief shall have the right to hire an additional experienced Fire Marshal(s), outside of the department/classified service, within that three year period.
   D. Any Fire Marshal appointed under this provision will serve as Fire Marshal in an unclassified capacity until he/she leave the City’s employment.

2. Fire Marshal’s Office (after initial three year period):
   Firefighters are encouraged to develop the knowledge, skills, abilities, and credentials for service as Fire Marshal and/or in the Fire Marshal’s Office. It is the City's hope that following three years, qualified firefighters will have developed knowledge, skills, abilities, and credentials to serve as the Fire Marshal.
   A. In the event that there are no qualified firefighter candidates to serve as Fire Marshal, the Fire Chief shall have the right to appoint a Fire Marshal from outside of the Department. The decision regarding qualified candidates will be made by the Fire Chief. The Fire Chief will review the decision with the Association President.
   B. Any Fire Marshal appointed from outside the department under 2(A) above, will not be a member of the classified service at appointment and will not have the protections of civil service at employment or for the duration of employment.

Section 3. Preemption

The parties agree that the provisions of this Article preempt during the term of this agreement and to the extent of any change or conflict, all contrary state statutes, including TLGC 141, 142, and 143, including but not limited to sections 143.003, 143.014, 143.021, 143.102 and Section 143.085, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the fire department, the City of San Marcos or by a division or agency of the city, such as a personnel board or a civil service commission.
Proposed Fire Marshal Function

The Fire Prevention Division (FPD) of the San Marcos Fire Department (SMFD) currently performs the following key fire prevention functions:

- Fire & Life Safety inspection for construction related permits
- Plans Reviews for construction related permits
- Citizen inquiries and questions
- Annual inspections of commercial facilities for licensing requirements
- Complaint based fire and life safety inspections
- Fire investigations
- Consulting to COSM departments on fire and life safety matters

Based on a standard 40-hour work week or 2,080 hours per year, the Fire Marshal and Assistant Fire Marshals have approximately 1,700 hours, per year, for fire prevention functions. The adjusted work hours include time away from fire prevention duties for vacation, sick, holiday, and state-mandated/required continuing education.

In CY 2016, the FPD conducted 2,092 inspections related to construction permits. This number was obtained from mypermitnow.org. On the average, including commute, inspection, and report preparation time, each inspection averages 1.5 hours. This average includes inspections that require two inspectors. The time does not include the scheduling and other administrative tasks related to each inspection. The inspections that require two inspectors include, but are not limited to, fire hydrant hydro tests and alarm final acceptance inspections. Based on this figure, a minimum of 1.8 personnel are needed for these inspections.

The FPD also performs plan reviews on relative construction permit applications.

In CY 2016 and 2017, the FPD averaged completing approximately 640 plan reviews. The time to conduct the review, prepare follow-up documentation, and complete the plan review, is approximately 3 hours, on the average. Based on this figure, 1.1 personnel are needed for plan reviews.

In CY 2017, the SMFD responded to 34 structure fires, 39 vehicle fires, and 36 grass fires. On approximately 75% of the structure fires, 25% of the vehicle fires, and 10% of the grass fires, a fire investigator would have been or was required. The average time to complete a structure fire investigation is six hours. Vehicle and grass fires are approximately three hours. Based on these averages and assumptions, a total of 381 hours would be required for fire investigations. The time above does not include follow-up investigation, fire testing, or courtroom testimony related to any of the investigations. At least 0.5 of a personnel is required for fire investigations.

For permit-related plan reviews, inspections, and fire investigations, 3.4 field personnel in the FPD would be required, at a minimum.

The number of annual fire inspections for licensing requirements (i.e., hospitals, day care centers, assisted living facilities, foster homes, et al) is not known due to a lack of readily accessible and/or electronic documentation maintained by previous fire marshal personnel.

Currently, there are approximately 5,600 commercial water meters in the COSM. Based on U.S. Census Bureau data, the FPD estimates there are approximately 4,000 businesses operating in the COSM. No regular compliance inspections are being conducted of these businesses or commercial facilities. The standard for the frequency of these inspections is commonly referenced in NFPA 1730: Standard on

NFPA 1730 in Annex A, Section A3.3.3.1 defines High Risk Occupancies, as apartments, hotels, dorms, lodging, assembly, child care, detention, educational, and healthcare. It should be noted that assemblies include places of worship and restaurants. The standard for inspections on these type of facilities in once annually.

NFPA 1730 in Annex A, Section A3.3.3.2 defines Low Risk Occupancies as mercantile and businesses, such as attorneys' offices, CPA offices, real estate offices, doctor's offices, dentists, banks, et. al. The standard for inspections on these occupancies in once every three years.

NFPA 1730 in Annex A, Section A3.3.3.3 defines Moderate Risk Occupancies as ambulatory care facilities and industrial operations. The standard for inspections on these occupancies is once every two years.

Based on the estimated number of businesses in the COSM and the frequency of inspections outlined in the standards established by NFPA 1730, an additional 1,900 inspections should be required. This equates to 1.7 personnel needed for "annual" inspections.

It is imperative to promptly address complaints of fire and life safety concerns received from citizens and members of the public. For example, in early April 2018, a complaint was received on a business in the COSM. A couple nights prior to the inspection, the business had a small fire in the building which required the response of the SMFD. During the inspection, the following issues were identified:

- Critical electrical issues
- Blocked doors
- Impeded stairways
- A non-working commercial kitchen suppression system
- Storage of tires and flammable liquids and gases in large quantities inside the building
- An attached auto repair garage that was not permitted and was operating in an unsafe manner

The auto repair facility was referred to the permitting office. The restaurant was closed until all fire safety issues were corrected. The remainder of the business was allowed to continuing operating and has willingly cooperated with the FPD to correct identified life safety hazards.

During another inspection, it was discovered a business had operated without having their automatic sprinkler system inspected for approximately 15 years.

Complaint and annual inspections are imperative to the life safety of the firefighters of the SMFD and the citizens and visitors of the COSM.

Based on the 3.4 field personnel needed only for plans reviews and construction-related inspections, the FPD has limited capacity for annual licensing inspections, and no capacity to conduct regular annual inspections of all businesses in the COSM. Additionally, no resources are currently available for Community Risk Reduction or fire safety public education through the FPD. Finally, the workload identified above does not include complaint inspections. The workload also does not include e-mail, phone, or in-person communications with citizens or customers on issues not directly related to the functions identified above. Also, the management of scheduling and maintaining the data associated with the above activities is not included in the workload. Many of the activities which the field personnel of the FPD lack capacity to perform, are accomplished by an administrative support person.
Based on the data outlined above, 3 field personnel and an administrative support professional is the minimum necessary personnel to conduct limited duties within the FPD.

To complete the current tasks and annual inspections, 5 field personnel and an administrative professional, for a total of six personnel, would be required. Even with five field personnel, no capacity for complaint-based inspections, fire and public safety education, or community risk reduction initiatives exist.
AGENDA CAPTION:
Consider approval of Resolution 2018-66R, approving Change Order No. 1 to the contract with Deloitte and Touche to perform additional consulting services related to the preparation, reconciliation and submission of projects for FEMA Public Assistance Grants and increasing the total amount of the project by $55,000.00; ratifying the City’s execution of the original contract and the increase in dollar amount; and declaring an effective date.

Meeting date: April 17, 2018

Department: Finance-Heather Hurlbert, Director and Marshal’s Office-Jeff Caldwell, Director

Amount & Source of Funding
Funds Required: Not to exceed $55,000
Account Number: 10001280.52230, 21006322.52230, 22006335.52230
Funds Available: $55,000
Account Name: Professional Services

Fiscal Note:
Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: Please select from the dropdown menu below

Choose an item.

Comprehensive Plan Element(s): Please select the Plan element(s) and Goal # from dropdown menu below

☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☐ Not Applicable
Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Choose an item.

Background Information:
The City entered into a contract with Deloitte and Touche, LLP (Deloitte) for consulting services to provide technical assistance with identifying, preparing, reconciling and the submission of documents related to FEMA’s Public Assistance grant program for the flooding incidents of May 2013 as well as May and November 2015. Deloitte began work in August 2017 and the initial contract was not to exceed $49,800 based on an estimated effort of 235 hours. The estimated effort needed to complete the work on the projects requires an additional 268 hours by Deloitte generating estimated fees of $55,000. We expect that some of these fees will be eligible for reimbursement as part of the total expense of the submitted projects.

FEMA is requiring grant project documentation to be submitted on a short timeline due to the extended amount of time that has elapsed since the flooding incidents occurred. With current staff levels and expertise, staff would not be able to complete the project grant submissions, document organization, and audit preparations without Deloitte expertise and assistance.

Council Committee, Board/Commission Action:
Click or tap here to enter text.

Alternatives:
Click or tap here to enter text.

Recommendation:
Click or tap here to enter text.
RESOLUTION 2018-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH DELOITTE AND TOUCHE TO PREFORM ADDITIONAL CONSULTING SERVICES RELATED TO THE PREPARATION, RECONCILIATION AND SUBMISSION OF PROJECTS FOR FEMA PUBLIC ASSISTANCE GRANTS AND INCREASING THE TOTAL AMOUNT OF THE PROJECT BY $55,000.00; RATIFYING THE CITY’S EXECUTION OF THE ORIGINAL CONTRACT AND THE INCREASE IN DOLLAR AMOUNT; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. Change Order No. 1 to the contract with Deloitte and Touche to perform additional consulting services related to the preparation, reconciliation and submission of projects for FEMA public assistance grants and increasing the total amount of the project by $55,000.00 is approved

PART 2. Change Order No. 1’s increase in total project price to $104,800.00 is ratified.

PART 4. This resolution will be in full force and effect immediately from and after its passage.

ADOPTED this the 2nd day of May 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
AUTHORIZATION OF CHANGE IN SERVICES
CITY OF SAN MARCOS, TEXAS

PROJECT NAME: FEMA Public Assistance
CITY PROJECT MANAGER/REP: Rachel Ingle
CONSULTANT/VENDOR: Deloitte & Touche, LLP
CONTRACT NO: 218-207
AUTHORIZATION NO: #1
DATE OF THIS CHANGE: August 8, 2017

WORK TO BE ADDED TO OR DELETED FROM SCOPE OF SERVICES

Additional scope of work to complete audit of large grants related to Disaster Recovery, to complete to work before moving into subsequent audits. Fees per attached chart.

Previous contract amount: $49,800
Net increase/decrease in contract amount: $55,000
Revised contract amount: $104,800

Requested by:

Kathryn Schwerdtfeger

Date 4/18/2018

Printed name, title

Approved by:

City of San Marcos:

By: ____________________________ Date: ____________________________

Printed name, title

City Department (PM, etc.) only below this line.

Account Number(s): ____________________________

Previous Changes in Service:
# ______; date; amount
# ______; date; amount
# ______; date; amount

1
<table>
<thead>
<tr>
<th>Activity</th>
<th>Remaining Population</th>
<th>Assumptions</th>
<th>Issues of Work</th>
<th>Level of Effort</th>
<th>Proposed Resource</th>
<th>Comments</th>
</tr>
</thead>
</table>
| 1. Stage the Data *  
  Split documents into separate files  
  Upload to SP  
  Populate SP Properties  
  Rename file  
  Getting files into the right PW folder | | | All documents not included in the Deloitte line below. | 18 | Deloitte | Need to find missing documents; additional documents are posted (125 in 2 weeks); proof of payment documents missing (only want proof of payment for 4 Large PWs) and estimate how many |
| 2. Prepare PW Reconciliation Workbook (Summarizes the PW, Reconcile COSM / EMMIE)  
  Populate the PW workbook with 90-91 and LAPIhistory information  
  Extract FW files from SP  
  Populate the COSM Closeout Workbook with fields by Source (COSM / EMMIE), Expense Type, Document Date and Amount | | | Update properties for all FW related documents currently in SharePoint. Properties will be populated with available information in the file name. Documents will not be opened. Purpose is to provide increased search and identification capabilities to assist with completing the Closeout Workbook for the 4 Large PWs in 2 below.  
For 4 Large PWs, split remove EMMIE documents that currently have multiple documents in one file and rename and update properties. | 33 | Deloitte | |
| 3. Procurement and Transactional Compliance Assessment  
  Obtain Procurement documents and determine type of procurement and if in compliance  
  Review underlying supporting documents for compliance  
  Prepare issues log  
  Follow-up on resolved items | | | Assess underlying supporting documentation for compliance for PW 2216 and PW 2247 and communicate findings. Excludes assessment for proper procurement. | 48 | Deloitte | Support only, not procurement |
| 4. FW Closeout Checklists/Risk Issue Logs  
  Prepare closeout checklist  
  Prepare issues log  
  Follow-up on resolved items | | | Complete the Closeout Checklist and prepare a Risk/Issue log for PW 2216 and PW2247 | 48 | Deloitte | |
| 5. Prepare Disaster Level Reconciliations (reconcile reimbursements/disbursements GT to SP documents = Completeness)  
  Memo Support and project Administration | | | Prepare revenue and expenditure reconciliations of general ledger activity to the SharePoint PW files (amount property) and identify reconciling differences. Leveraging the SharePoint retained files in 1. Staging Data, attempt to locate missing files. Communicate missing files to COSM. Follow-up and update reconciliation and Steps 3 and 4 as applicable.  
Read and provide recommendations and/or edits to two mentors.  
Conduct engagement management activities such as but not limited to communication, supervision and review. | 108 | Deloitte | |

**Total Estimated Hours: 258**  
**Total Deloitte Hours: 129**  
**Total Deloitte Additional Fees: $5,000**
AGENDA CAPTION:
Consider approval of Resolution 2018-67R, approving the Stormwater Master Plan; and declaring an effective date.

Meeting date: May 1, 2018

Department: Eng/CIP

Amount & Source of Funding
Funds Required: N/A
Account Number: Click or tap here to enter text.
Funds Available: Click or tap here to enter text.
Account Name: Click or tap here to enter text.

Fiscal Note:
Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Stormwater
Goal #5 Maintain & Improve City's Infrastructure
Goal #9 Protect & Preserve San Marcos River and Edwards Aquifer Recharge Zone

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☒ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☐ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
**Background Information:**
The Stormwater Master Plan encompasses multiple city initiatives undertaken over the last 3 years to address the issues associated with both the quality and quantity of stormwater runoff. The Master Plan summarizes the actions and recommendations in 5 key areas:

- Creek and riverine flooding
- Urban flooding (local drainage)
- Water Quality
- Disaster Recovery
- Regulatory improvements

The work completed with the master plan has:

- identified localized stormwater projects associated with the expedited stormwater capital improvements program,
- developed computer models of the rivers and streams to aid in analysis of future development,
- guided the regulatory language for City codes,
- and initiated the use of two dimensional modeling to better understand the complex movement of runoff both in the storm sewer and on the ground surface.

It provides the City a road map to move forward on the Council’s Stormwater Strategic Initiative.

Based upon the master plan, an update to the Stormwater Utility is anticipated to the complete by the end of 2018.

**Council Committee, Board/Commission Action:**
Click or tap here to enter text.

**Alternatives:**
Click or tap here to enter text.

**Recommendation:**
Approval of the Stormwater Master
RESOLUTION NO. 2018-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE STORMWATER MASTER PLAN; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Stormwater Master Plan is hereby approved.

PART 2. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on May 1, 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
San Marcos

Stormwater Master Plan

March 26, 2018

Prepared by: RPS
Lockwood Andrews & Newnam, Inc.
Halff Associates, Inc.
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INTRODUCTION

For decades San Marcos has participated and led numerous strategic initiatives to improve the management of stormwater quantity and quality within its jurisdiction. From the first Flood Insurance Study (FIS) published in 1978 to the construction of major NRCS reservoirs from 1981 to 1991, to the establishment of a water quality rules and a drainage utility in the late 90’s, and all of the recent efforts described in this Stormwater Master Plan, San Marcos is a leader when it comes to developing cutting edge stormwater regulations, responding to disasters and implementing solutions.

This document summarizes recent efforts by various agencies that make up the City of San Marcos’ Watershed Master Plan. It is intended to “time stamp” these efforts and identify the “next steps.” The purpose of this master plan is to:

- Improve regulations to guide development;
- Ensure compliance with local, state and federal regulations; and
- Emergency preparedness.

The major challenges facing the City include:

- Projected growth in population;
- Threats to water quality and endangered species;
- Increased frequency of flooding; and
- Sustainability.

The City’s Land Development Code (LDC) addresses stream erosion, development within the floodplain and the protection of water quality of stormwater runoff. Through regulations and planning, San Marcos exceeds the minimum standards established through National Flood Insurance Program (NFIP) and plays an active role in the Edwards Aquifer Recovery Implementation Program (EARIP).

The City’s 2018 Capital Improvement Plan (CIP) reflects the City’s commitment to improving the quality of life for its residents by programing strategic projects that address the many challenges in both managing the quantity and quality of stormwater runoff. The City leverages local dollars with state and federal funds to address many issues through an integrated approach. The City’s 10-year CIP includes $89 million for design and construction projects which will go a long way to meet discrete site specific needs and at the same time allow for partnering on regional initiatives such as mitigating floods on the Blanco River and protecting the quality of the Edwards Aquifer.
THE VISION

In April of 2013 the City officially adopted “Vision San Marcos: A River Runs Through Us” as the comprehensive plan of San Marcos to guide the growth and development. The stated goals and objectives are the community direction for implementing the plan and achieving the preferred future development scenario. This Stormwater Master Plan aligns with the City’s goals for Environment and Resource Protection which include:

- Incorporation of low impact development (LID) practices;
- Adoption of watershed specific regulations;
- Development of regional detention and water quality strategies;
- Adoption of comprehensive floodplain development regulations; and
- Preparedness for, and resilience to, disasters.

This timely consensus driven initiative served as an important event that would lay the ground work to allow city officials to move forward quickly and capitalize on other events to derive this integrated stormwater plan. Key events such as:

- Revisions to the land development code (LDC) to better manage significant projected population growth and serve future development;
- Partner on initiatives by the Edwards Aquifer Authority and the Meadows Center to address water quality challenges;
- Partner on a significant effort by the GBRA, USACE and the TWDB to address flooding; and
- Aggressively and effectively respond to flood disasters in 2013 and 2015.
Catalysts

There are two (2) primary catalysts when it comes to effectively dealing with stormwater issues in San Marcos: **quality and quantity**. Understanding and addressing these aspects are essential for environmental and resource protection, preserving the quality of life in San Marcos, tourism and socio-economic development.

Significant population growth in the last 10 years coupled with increased frequency of flooding dramatizes the need for more sustainable regional solutions to keep pace with growth projections. While local efforts are essential, larger scale initiatives are important to completely address major challenges when they extend outside of the City’s jurisdiction. With the participation of the City of San Marcos, crucial regional initiatives that compliment this Watershed Master Plan were led by:

- The Edwards Aquifer Authority (EAA) to address water quality; and
- The Guadalupe Blanco River Authority (GBRA) to address major flooding (quantity).
CATALYST: Quality

The degradation of stormwater runoff quality can directly impact:

- Drinking water supplies;
- Threatened and endangered species;
- Compliance with state and federal regulations;
- Quality of life; and
- The natural environment.

In addition to efforts at the local and state level, the Edwards Aquifer Recovery Implementation Program (EARIP) has been the most significant, and comprehensive, initiative in recent years intended to protect water quality. Driven by a need to secure their future water supply through pumping from the aquifer, stakeholders (including San Marcos) joined together to develop provisions to protect threatened and endangered species that rely on base flow from the springs.

Through the EARIP initiated in 2006, the Edwards Aquifer Authority (EAA), the San Antonio Water System (SAWS), City of San Marcos, City of New Braunfels, and Texas State University applied for, and received, an Incidental Take Permit (ITP) under Section 10(a)(1)(B) of the Endangered Species Act (ESA). Finally issued in 2013, the ITP included a Habitat Conservation Plan which allows the “incidental take” of threatened or endangered species resulting from the otherwise lawful activities involving regulating and pumping of groundwater from the Edwards Aquifer (Aquifer) for irrigation, industrial use, municipal and domestic and livestock uses, and the use of the Comal and San Marcos spring and river systems for recreation and other activities. Targeted species in San Marcos include: Texas wild rice, fountain darter, the San Marcos salamander, the San Marcos gambusia, the Texas blind salamander and the Comal Springs riffle beetle.

This directive defines the basic measures and approach to water quality specific to San Marcos that serves as the basis for water quality protection outlined in this Stormwater Master Plan.
San Marcos has significant challenges when it comes to managing the quantity of stormwater runoff. Urban flooding (local drainage) as well as creek and riverine flooding can threaten lives and property with very little notice in central Texas. Unique topographic relief and meteorological conditions sometimes collide along an area referred to as ‘flash flood alley’ that extends from central north Texas through the Austin-San Antonio corridor to near Del Rio. San Marcos has had its share of disasters including three (3) major events in the last five (5) years including the most significant flood of record. The 2015 flood dropped more than 12 inches of rainfall in 6 hours and resulted in 12 fatalities in Hays County.

The GBRA, in partnership with the US Army Corps of Engineers (USACE), the Texas Water Development Board (TWDB), and multiple local communities, initiated a basin-wide flood study of the Guadalupe River in 2011. Significant efforts continue to be made by these agencies to identify solutions to riverine flooding with a particular attention to the Blanco River at San Marcos. The information developed as part of the study is used by local officials to regulate and guide development and by the Federal Emergency Management Agency (FEMA) to update flood insurance rate maps.

This collaborative study includes the use of state-of-the-art technologies and information for a comprehensive look at damage centers and flood risk for regulating floodplains and developing solutions. This study is then subsequently expanded and employed at the local level as reflected in this Stormwater Master Plan with respect to managing the quantity of runoff.
Many distinct and somewhat separate actions were taken both locally and regionally by numerous public agencies that contributed to the development of the City’s comprehensive Stormwater Master Plan. Significant efforts and contributions were made by:

- Edwards Aquifer Authority (EAA)
- Federal Emergency Management Agency (FEMA)
- Guadalupe Blanco River Authority (GBRA)
- Hays County
- National Weather Service (NWS)
- Texas Department of Emergency Management (TDEM)
- Texas State University and The Meadows Center for Water and the Environment
- Texas Water Development Board (TWDB)
- Upper San Marcos Watershed District
- US Army Corps of Engineers (USACE)
- USDA Natural Resources Conservation Service (NRCS)
- US Department of Housing and Urban Development (HUD)

This Stormwater Master Plan captures the efforts of these agencies and the City’s efforts to address the challenges associated to the quality and quantity of stormwater runoff. The actions in response to these catalysts can be catalogued in five key areas:

- Creek and riverine flooding;
- Urban flooding (local drainage);
- Water quality;
- Disaster recovery; and
- Regulatory improvements.
CREEK AND RIVERINE FLOODING

Through a contract with the US Army Corps of Engineers (USACE) and the Texas Water Development Board (TWDB), the GBRA sponsored detailed flood studies of the Guadalupe, Blanco and San Marcos Rivers. Fourteen of its river communities (including San Marcos) participated in the project to leverage funds and expand the scope to include additional detail within their jurisdictions.

The results of this study includes better delineation of floodplain and identification of flood prone areas and damage centers and the analysis of flood reduction alternatives. This project began in 2011 is scheduled for completion in 2018.

San Marcos streams include:
- Blanco River/San Marcos River Overflow*
- Purgatory Creek* and tributaries
- Sink Creek including Schulle Canyon Creek
- Sessom Creek
- Willow Springs Creek* and tributaries
- Cottonwood Creek and tributaries*

* The City has, and is, conducting additional 2D modeling studies on these creeks and rivers.

Using the information from that study, an official revision to the floodplains was initiated by FEMA in response to the devastating floods in 2015 with support from the USGS and the Nation Weather Service. Preliminary flood insurance rate maps (FIRM) were released in April of 2017. The maps should be finalized by the end of 2018; however, the City began utilizing the maps immediately for regulatory purposes.
A total of **62 urban flooding sites** were identified by City staff through general observation and/or citizen complaints. Detailed hydraulic studies were conducted at each site as part of this master plan. Flooding issues were assessed and proposed measures were developed. Each area was overlaid and integrated with the City’s other capital improvement projects and water quality project sites identified in the Water Quality Protection Plan.

Urban floods can be a great disturbance of daily life in the city. Roads may be blocked and economic damages may be high; however, unlike riverine flooding, the number of casualties may be low due to the nature of the flood.

Urban flooding issues are primarily the responsibility of the local government and do not typically include the direct support of state and federal agencies. In the case of San Marcos, some areas include both “urban” flooding and creek/riverine flooding and it can be difficult to discern the actual source. Detailed analyses identify flooding sources so solutions can be developed and funding can be leveraged with the efforts by state and federal agencies.

Future complaints or issues will be identified, documented and addressed as received. A GIS database has been provided to facilitate this effort for use by City departments.
DISASTER RECOVERY

U.S. Housing and Urban Development (HUD) announced in February 2016 that $25 million was to be awarded to the City of San Marcos through the HUD Community Development Block Grant - Disaster Recovery Program (CDBG-DR) following significant flooding in May and October 2015. The funds are intended to address unmet housing, economic development, and infrastructure needs resulting from more than 1,000 homes and small businesses being damaged or destroyed. San Marcos completed an Action Plan that outlines how the CDBG-DR funds will be used to help the community recover from the 2015 floods. Fifty percent of the total funds was allocated for infrastructure improvements.

**Action Plan Budget**

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Cost</th>
<th>Start</th>
<th>Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Midtown</td>
<td>$850,000</td>
<td>Dec 2017</td>
<td>2020</td>
</tr>
<tr>
<td>Blanco Gardens</td>
<td>$5,000,000</td>
<td>Nov 2017</td>
<td>2021</td>
</tr>
<tr>
<td>Clarewood / Barbara</td>
<td>$2,500,000</td>
<td>Dec 2017</td>
<td>2021</td>
</tr>
<tr>
<td>Uhland Road</td>
<td>$4,190,000</td>
<td>Sept 2017</td>
<td>2021</td>
</tr>
</tbody>
</table>

In 2017, an additional $11.5 million was awarded to the City. Of that, over $6 million was approved to control the overflow of flood waters at the Blanco Gardens subdivision area by constructing bank improvements along the Blanco River from Highway 80 to Old Martindale Road.
**WATER QUALITY**

The Edwards Aquifer Recovery Implementation Program’s (EARIP) Habitat Conservation Plan (HCP) dated November 2012 supports the permit issued in 2013 by the US Fish and Wildlife Service under Section 10(a) of the Endangered Species Act. This permit allows for the “incidental take” of threatened or endangered species resulting from regulating and pumping of groundwater from the Edwards Aquifer (Aquifer) and the recreational uses of the Comal and San Marcos spring and river systems. The measures included in the HCP are designed to ensure that incidental take will be minimized and mitigated and will not reduce the likelihood of the survival and recovery of the critical species associated with these ecosystems.

Consistent with Section 5.7.6 of the HCP, the City of San Marcos, in association with Texas State University, developed a **Water Quality Protection Plan (WQPP)** to protect water quality and reduce the impacts of impervious cover. Based on scientific methods, this Watershed Master Plan incorporates:

- recommended areas of protection;
- 19 strategic retrofit solutions;
- additional water quality sites to be integrated with capital; improvement projects; and
- other measures and strategies to protect water quality to be included in the City’s update to the Land Development Code (LDC).
Clean Water Act – MS4

Through the requirements of the Clean Water Act (CWA), the U.S. Environmental Protection Agency (EPA) established the program known as the National Pollutant Discharge Elimination System (NPDES) to identify water pollution sources and has delegated responsibility for the program in Texas to the Texas Commission on Environmental Quality (TCEQ). In addition to issuing discharge permits to traditional point sources, such as wastewater treatment plants, the responsibility also includes the minimization of pollution from non-point sources, such as stormwater runoff from construction sites, industrial facilities and municipal separate storm sewer systems (MS4). Based on the population reported in the 2010 census, San Marcos is required to develop a program to protect stormwater quality for their storm sewer systems for compliance.

San Marcos has developed a response that includes the following Best Management Practices (BMP’s):

1. Public Education, Outreach, and Involvement.
2. Illicit Discharge Detection and Elimination (IDDE).
3. Construction Site Stormwater Runoff Control.
5. Pollution Prevention and Good Housekeeping for Municipal Operations

Measurable goals and an implementation schedule were developed for each of these practices based upon effectiveness, applicability in the San Marcos environment, costs associated with implementation of the BMP’s, and consistency with on-going water quality initiatives, such as the Habitat Conservation Plan (HCP). Implementation also includes inspection of public and private facilities to monitor performance. Effectiveness and success of BMPs is reviewed annually.
**Code SMTX**

Code SMTX is the process to update the City’s Land Development Code (LDC). The Code contains the City’s rules for development and regulates the use of land. It is being revised so that new development fits the community’s Vision for the future. Pending updates associated with stormwater management address:

- Land use planning/suitability;
- Fee in lieu of water quality;
- Fee in lieu of detention;
- Stream buffers;
- Water quality protection zones; and
- Stream protection volume.

These initiatives directly address many goals called for under “Environment and Water Resource Protection” stated within the Comprehensive Plan. Highlights include the:

- Watershed specific water quality regulations;
- Regional detention and water quality strategies; and
- Comprehensive floodplain regulations.

“Fee in lieu of detention” is based on square foot of impervious cover and ranges from $1.00/square foot to $7.35/square foot.

The “fee in lieu of water quality controls” is available for development within the Urban Stormwater Management District. The fee in lieu ($14,629 / acre, effective March 1, 2018) is based on the estimated cost of regional water quality controls per total area within the District.
Floodplain Damage Prevention Ordinance

On November 15, 2016, the City of San Marcos adopted a new floodplain damage prevention ordinance that:

- Exceeds FEMA’s minimum standards;
- Incorporates a “no-rise” floodplain policy:
- Adds freeboard and buffers for new development;
- Accepts new flood models to establish base flood elevations; and
- Requires construction staging within the floodplain.

The “no-rise” policy does not allow any increase in water surface elevation resulting from development, accounts for losses of flood storage capacity and includes new standards for fill placement in special flood hazard areas. The freeboard standard for new development requires finish floors to be placed two (2) feet above base flood elevations and new buffer zones are required to extend beyond the floodplain (BFE + 2 feet).
RESULTS
The results of these actions are being leveraged and utilized to:

- Plan and construct capital drainage improvements;
- Conduct additional studies;
- Regulate development;
- Identify opportunities to partner with agencies; and
- Disaster preparedness and recovery.

The Capital Improvements Program (CIP) adopted by council in September 2017 captures the efforts required in the next ten years that includes $89 million of storm drain improvements (an increase of $47 million from the previous CIP), $24 million in CDGB-DR projects, $0.5 million in water quality improvements and $3.5 million in additional studies and land purchases. The CIP will be updated annually and focuses primarily on infrastructure and facility needs. Additional revenue will be required to fund the projects identified. The City will continue to seek out grants, utilize “fees in lieu of” and consider possible adjustments to drainage utility rates to close the gap.
MOVING AHEAD

This stormwater master plan is intended to summarize all of the activities and efforts that have been completed, and have yet to be completed, in order to address the many issues associated with stormwater runoff. Many additional efforts are on-going and still required for success such as:

- Adoption of this Master Plan by city council;
- Securing of additional funds to finance the CIP;
- Update of the City’s stormwater utility fee structure;
- Additional 2-dimensional watershed modeling to better define issues and optimize solutions;
- Continued support of the efforts of the Meadows Center’s Watershed Protection Plan;
- Additional land acquisition and conservation;
- Adoption of Code SMTX and associated fees;
- Consideration for long term sustainability; and
- Development of stormwater technical manuals to support the City’s new land development code.

Schedule of key and major initiatives
APPENDIX AND LIST OF REFERENCES

RECON, Edwards Aquifer Recovery Implementation Program: Habitat Conservation Plan, November 2012
Vision San Marcos: A River Runs Through Us, April 2013
Halff, Lower Guadelupe River Basin Interim Feasibility Study – Phase 1, Technical Report Notebook (TRN), March 2014
Halff, Blanco/San Marcos Confluence 2D Modeling, March 9, 2016
John Gleason LLC, Water Quality Protection Plan for the City of San Marcos and Texas State University, September 26, 2016
Halff, Cottonwood Overflow 2D Modeling, December 22, 2016 and addendum dated March 10, 2017
FEMA, Hays County Flood Insurance Study, April 2017 (preliminary)
LAN, Detention Volume Estimates (Fee in Lieu of Detention), August 18, 2017
San Marcos, 2018-2027 Recommended Capital Improvements Program, September 28, 2017
LAN, San Marcos Watershed Master Plan: Local Drainage Projects Database, November 2, 2017
Halff, San Marcos Watershed Master Plan: Hydrology and Hydraulics Summary Letter, November 20, 2017
RPS, Purgatory Creek 2D Study and Conceptual Improvements, 2018
AGENDA CAPTION:
Receive a staff presentation and hold a Public Hearing to receive comments for or against Resolution 2018-69R, approving Substantial Amendment No. 6 to the Community Development Block Grant-Disaster Recovery ("CDBG-DR") Action Plan to include the Reconstruction On City-Owned Property ("RCOP") Program to enable qualified residents affected by the 2015 floods to construct new homes on city-owned lots; approving the allocation of CDBG-DR funds to projects and activities under the RCOP program; authorizing the City Manager or his designee to act as the official representative of the City in matters related to the CDBG-DR program and action plan; and declaring an effective date; and consider approval of Resolution 2018-69R.

Meeting date: May 1, 2018

Department: Planning and Development Services

Amount & Source of Funding
Funds Required: Click or tap here to enter text.
Account Number: Click or tap here to enter text.
Funds Available: Click or tap here to enter text.
Account Name: Click or tap here to enter text.

Fiscal Note:
Prior Council Action: CDBG-DR funds will be utilized to build the homes.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Workforce Housing and Storm water
Goal #2 Beautify & Enhance the Quality of Place
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☒ Neighborhoods & Housing - Protected Neighborhoods in order to maintain high quality of life and stable property values
Background Information:
The City of San Marcos was awarded $33,794,000 to address the impact of the floods of 2015. Substantial Amendment No. 6 to the Community Development Block Grant - Disaster Recovery Action Plan will expand the Housing Program to include the Reconstruction on City Owned Property Program (RCOP) which provides an opportunity for Applicants that would otherwise not be eligible for the CDBG-DR program to receive benefits in the form of a no cost to Applicant City Owned Residential Lot and a CDBG-DR financed stick built home. Key concepts of the RCOP include:

- The Applicant will surrender all rights to existing property
- The Applicant will be required to sign a deferred forgivable loan for a period of 30 years
- The applicant will be required to sign a Land Use Restriction Agreement that generally will:
  - Provide a First Right of Refusal to the City if Owner desires to sell for 30 years
  - Limit the sale of the Property to Low-to-Moderate Income Households for 30 years and get approval of sale by the City
  - Require a payback to the City for any years where a Low-Moderate Income Household does not occupy the home
  - Establishes a mechanism for approving the sale price of the Property
- Require that insurance and taxes remain current on the Property
- Require that the Owner provide proof that they not only own but also occupy the Property

Council Committee, Board/Commission Action:

Workforce Housing

Alternatives:
CDBG-DR funds could be utilized to purchase lots for the program.

Recommendation:
Staff recommends approval.
CDBG-DR
Amendment No. 6
Home Reconstruction on City-Owned Lots
Council Action:

Approve Substantial Amendment No. 6 to the Community Development Block Grant – Disaster Recovery (CDBG-DR) Action Plan to include a new housing program – Reconstruction of Homes on City-Owned Lots (RCOP).
Single-Family Owner-Occupied – CDBG-DR Housing Program

**Housing Rehabilitation**: less than $45,000 in damage and less than 50% in total damages

**Housing Reconstruction** – at least 50% in total damages
Some homeowners are eligible for CDBG-DR reconstruction of their homes, but their property is not located on land that is eligible for rebuild.

- The property is located in a FEMA designated Floodway.
- The property is manufactured housing located on land not owned by the applicant.
City-Owned Lots and Workforce Housing

1. Strategic Goal - Workforce Housing
2. Desire to create affordable housing
3. Maintain affordable housing
4. Resource - Inventory of Lots
5. Requesting 5 lots
   (7) 811 Alabama Street
   (9) 607 Georgia Street
   (24) 227 Roosevelt Street
   (26) 330 Ellis Street
   (29) 603 Centre Street
Dept. of Housing and Urban Development – CDBG-DR Program

➢ Goal – Flood recovery assistance
➢ Resource – Funds to rebuild damaged homes
➢ Complex Program - Fundamental Requirements:
  • Applicants - Low-moderate income households
  • Impacted by the floods of 2015
  • Choice
Balancing Stakeholder Goals

- Homeowners affected by floods
- City Workforce Housing goals
- CDBG-DR federal requirements
Solution – Expand CDBG-DR Housing Program

✓ Approve the CDBG-DR Reconstruction of Homes on City-Owned Lots Program (RCOP).
✓ Applicants sign a deferred forgivable loan for 30 years.
✓ Applicants sign a land use agreement that will:
  • Provide a First Right of Refusal to the City if Owner sells within 30 year period.
  • Limits the sale of the Property to Low-Moderate Income Households for 30 years with City’s approval.
  • Requires a payback to the City for any years where a Low-Moderate Income Household does not occupy the home.
  • Must be occupied by the homeowner. (Property can not be rented.)
RESOLUTION NO. 2018-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING SUBSTANTIAL AMENDMENT NO. 6 TO THE COMMUNITY DEVELOPMENT BLOCK GRANT–DISASTER RECOVERY (“CDBG-DR”) ACTION PLAN TO INCLUDE THE RECONSTRUCTION ON CITY-OWNED PROPERTY (“CPOP”) PROGRAM TO ENABLE QUALIFIED RESIDENTS AFFECTED BY THE 2015 FLOODS TO CONSTRUCT NEW HOMES ON CITY-OWNED lots; APPROVING THE ALLOCATION OF CDBG-DR FUNDS TO PROJECTS AND ACTIVITIES UNDER THE CPOP PROGRAM; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ACT AS THE OFFICIAL REPRESENTATIVE OF THE CITY IN MATTERS RELATED TO THE CDBG-DR PROGRAM AND ACTION PLAN; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The City Council of the City of San Marcos hereby approves Substantial Amendment No. 6 to the City of San Marcos Community Development Block Grant–Disaster Recovery (CDBG-DR) Action Plan to include the CPOP Program as attached hereto.

PART 2. The City Manager or his designee is hereby authorized to act as the official representative of the City in matters related to the CDBG-DR Program and Action Plan.

PART 3. This resolution shall be in full force and effect from and after its passage.

ADOPTED on May 1, 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
City of San Marcos CDBG-DR Program
Action Plan
Substantial Amendment #6

Public Notice
During the 30-day comment period, requests for comments to Substantial Amendment No. 6 to the CDBG-DR Action Plan were requested from the public via the following methods:

- A legal notice in Spanish and a legal notice in English requesting comments to Substantial Amendment No. 6 to the CDBG-DR Action Plan were posted to the www.smtxfloodrecovery.com website March 30, 2018
- A legal notice in Spanish and a legal notice in English requesting comments to Substantial Amendment No. 6 to the CDBG-DR Action Plan were published in the San Marcos Daily Record newspaper April 1, 2018.

Public Hearing
A public hearing was held May 1, 2018 during the City Council meeting to address comments concerning Substantial Amendment No. 6 to the CDBG-DR Action Plan.

Comments Received

City Council Approval
The City Council approved Substantial Amendment No. 6 to the CDBG-DR Action Plan during the City Council meeting May 1, 2018.

Content being added, changed, or amended by this document:

1. Housing Activities
The City of San Marcos was awarded $33,794,000 to address the impact of the floods of 2015. Substantial Amendment No. 6 to the Community Development Block Grant – Disaster Recovery Action Plan will expand the Housing Program under the Owner-Occupied Rehab/Reconstruction Program to include the Reconstruction on City-Owned Property Program which provides an opportunity for Applicants that would otherwise not be eligible for the CDBG-DR program to receive benefits in the form of a no cost to Applicant City-Owned Residential Lot and a CDBG-DR financed stick built home.

2. CDBG-DR Budget
Substantial Amendment No. 6 to the CDBG-DR Action Plan expands the Owner-Occupied Rehab/Reconstruction Program to include the Reconstruction on City Owned Property Program (RCOP), thus no changes were made to the CDBG-DR Budget.

<table>
<thead>
<tr>
<th>Project/Activity</th>
<th>Budget Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Program</td>
<td></td>
</tr>
<tr>
<td>1. Owner-Occupied Rehab/Reconstruction</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>2. Rental Unit Rehab/Reconstruction</td>
<td>$2,524,000</td>
</tr>
<tr>
<td>Infrastructure Projects</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>1. Midtown/Aquarena Springs</td>
<td>$850,000</td>
</tr>
<tr>
<td>2. Blanco Gardens</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>3. Clarewood/Barbara Drive</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>4. Uhland Road</td>
<td>$4,190,000</td>
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<tr>
<td>5. Blanco Riverine</td>
<td>$6,971,200</td>
</tr>
<tr>
<td>Planning</td>
<td>$5,069,100</td>
</tr>
<tr>
<td>Administration</td>
<td>$1,689,700</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$33,794,000</strong></td>
</tr>
</tbody>
</table>

**Posting**

The Substantial Amendment No. 6 to the CDBG-DR Action Plan will be uploaded into DRGR when the Action Plan is approved and the city can assess it.

**Approved for submittal to HUD:**

<table>
<thead>
<tr>
<th>Bert Lumbreras, City Manager</th>
<th>Date</th>
</tr>
</thead>
</table>

**Submitted to HUD for approval:**

**HUD approval received:**

**Posted on City Website:**
RELOCATION AND RECONSTRUCTION PROGRAM
RECONSTRUCTION ON CITY OWNED PROPERTY (RCOP)

The RCOP CDBG-DR Program encompasses the reconstruction of housing for impacted applicants that are in areas not eligible for rebuild or where the improvements are owned by the applicant but not the land. The City under the CDBG-DR program desires to assist the Applicants with stick built housing on City owned allowable build lots. Applicants eligible for the RCOP program are typically going to be single family homes that currently reside in a floodway that are not eligible for reconstruction at their current location and applicants who own flood impacted manufactured housing units (MHU) on land they do not own (could be land designed for MHU rentals or an MHU placed on land by agreement with the property owner). Other property owners in substantially similar circumstances may be considered for participation in RCOP on a case-by-case basis at the sole discretion of the City.

ELIGIBILITY

In addition to the eligibility criteria and documentation noted in the Threshold Eligibility Determination Step for the other approved Housing Programs the RCOP Program includes the following criteria to be considered for the next step in eligibility for the program:

- The homeowner must be located on property not eligible for rebuild by City or HUD policy
- The property is an MHU that is on land not owned by the Applicant (rental or agreed placement)
- The owner must own the property or MHU without any liens or they must obtain a waiver of liens that allow the City to have priority lien position in the property records upon the transfer of property.

THE INTERVIEW

If on the City of San Marcos CDBG-DR Intake Application in question 6., the Applicant has stated "yes" to "is the address an MHU" and "No" to "do you own the land?" then the Applicant may be eligible for the RCOP Program. Regardless of the type of dwelling if the Applicant has stated "Yes" to "Is the property located in the floodplain?" then the Applicant may be eligible for the RCOP Program if the property is in a floodway or other ineligible build lot. In the event the Applicant stated "Don't know" to the flood plain question, the Program will investigate further to determine if the Applicant is eligible for the RCOP.

- If the Applicant is eligible for the RCOP Program, the CMPC-CW interviewer should ask about liens or mortgages on the property.
- The CMPC-CW interviewer should provide a copy of CBDG-DR Form 0021 to the Applicant that highlights the RCOP Program and ask the Applicant if they are interested in a relocation program to city property that will include a 30 year restrictive covenant limiting the sale of the property under certain conditions.
- If the Applicant says "yes" then the CMPC-CW interviewer should collect the information necessary for the RCOP Program and indicate that the Applicant has been made aware of the conditions on the program before proceeding.
ENVIRONMENTAL REVIEW

The City Lot selected by the Applicant when the eligibility and score for RCOP has been determined will undergo a Tier II review for the lot to be utilized for stick-built construction.

SCORING AND LOT SELECTION

The City has a limited number of residential properties that they have acquired through various means. The City has voluntarily agreed to allow a certain number of these lots to be made eligible for the CDBG DR program in conjunction with a HUD style 100% Homebuyer Assistance Program in the form of the RCOP where the Applicant must be relocated. Once the eligibility of the Applicant for the RCOP Program has determined, the Applicant Score will be used in two ways. The Applicant must first qualify for the program under the overall program scoring process. Once the City has made a determination that the funds are available to serve the applicant in the Program, the Applicant’s score will also be used to determine the City Owned Lot Selection process.

As Applicants eligibility is determined, those with the higher eligibility score will be allowed to make the initial selection between the available lots for the Program. Those applicants with the highest scores will be allowed to select the City Owned lot they most prefer on a first come first served basis. The Applicants will be allowed three (3) days to select a Primary preference lot before the next level score of applicant is allowed to select from the lots. As all similarly scored applicants will be choosing between the lots at the same time, a lot that was available at the initial time of selection may be taken by another applicant with a similar score without notice. Between applicants with similar scores, the lots will be awarded on a first-come-first-served basis as to Primary Preference or if the available lots have been opened to secondary pool after the three day time for decision they will be in a first-come-first-served position. If an applicant would like to select a previously selected Primary Preference lot of another Applicant in the event that the Applicant who selected the lot does not qualify, or chooses not to participate or build on that lot, they may do but only as a Secondary Preference lot. The applicant with the Secondary Preference selection will need to select a Primary Preference lot. An Applicant may have one Primary Preference selected lot and not more than one Secondary Preference lot at any time. There is no limitation to how many Applicants may declare a single lot as a Secondary Preference Lot, but all applicants must select an available lot as a Primary Preference lot to move forward in the Program.

Once an Applicant has been approved and the construction plan signed, all secondary lot selections for that Applicant will be removed as will any secondary lot choices on the lot approved for construction.

In the event of a lot selection that is declared ineligible for building due to a Tier II review, the Applicant will be allowed to select from all remaining non-selected lots.

MAXIMUM BENEFIT FOR THE RCOP

The RCOP Program has three distinct elements that all must be completed above and beyond basic CDBG-DR program eligibility or the Applicant will not be able to move forward in RCOP Program. These are:

- Selection of Lot and TIER II approval of that lot for construction
- Transfer of Ownership of ineligible build lot or MHU to the City
- Demolition of any improvements on ineligible lot or MHU once transferred to the City
For purposes of the RCOP Program the cost of the Tier II review, transfer of Ownership (both City lot to Applicant and Applicant property to city) and the demolition will not be included in the Maximum Award available as determined above.

An Applicant may not participate in the RCOP Program unless the property (Land or MHU) is transferred. In the event of a mortgage is on the underlying property or MHU, it is the responsibility of the Applicant to obtain all necessary forms to allow the City to have the first lien position. The City will allow a mortgage to move to the new property provided the Land Use Restriction Agreement is in the first lien position.

For purposes of existing improvements in illegible properties or MHUs, the city will conduct a Request for Proposals for the demolition of existing stick-built and lot clearance required for the transferred property. The property will then be transferred to the City as public land and used appropriately (open space, wetlands, flood protection, etc.) in perpetuity. At no point will the property be used for redevelopment of housing. For MHUs, the city will seek a Request for Proposals for the removal, destruction and potential salvage of eligible materials of the MHU. In no cases will the MHU continue under its existing registration to be used as housing. The demolition of the stick-built housing on ineligible Property and the MHU must follow all HUD environmental standards including Asbestos and Lead Based Paint standards. The City will consider the cost of the disposal as a demolition program, but not charged against any Maximum Award to Owner, but will be factored into the overall cost of the Housing Program for determining the number of applicants to participate within the RCOP program based on funds available.

**RESTRICTIVE COVENANT AND NOTE REQUIRED**

The City is providing the RCOP Program recognizing that under the existing program rules, some Applicants would not have the ability to participate in the Program and therefore would remain in flood damaged homes—with the potential for future flood damage in future flooding events. The City desires to assist these Applicants to move into decent safe and sanitary housing that will replace their existing damaged housing where possible. The City has established a limited Homebuyer Assistance Program for relocating Applicants where their property is ineligible for rebuild or for Applicants that do not own the property where their Manufactured Housing Units are placed.

This program is subject to the availability of City owned lots being available for redevelopment. To meet the City goals of increasing affordable housing in the community, the City is requiring that the donated lots and the CDBG-DR funded reconstruction remain eligible for Low to Moderate Income Households for at least 30 years. The City is requiring that Applicants utilizing the RCOP program sign a 30 year Promissory Note and agree to and sign a Restrictive Covenant in the form of a Land Use Restriction Agreement (LURA) that will limit the transfer of the property to Low-to-Moderate Income Households for 30 years. The Applicant may remain in the home for 30 years and have the promissory Note extinguished regardless of household income.

Both the deferred forgivable Promissory Note and the LURA must be signed by the Applicant prior to the beginning of construction. The effective date of the LURA will be based on an estimated time of construction based on the home. If the home is completed before the Effective Date, the Effective Date of the LURA will amended to the earlier date. The capitalized terms are defined in the LURA.
Right of First Refusal

The City has an established policy to develop affordable housing within San Marcos. To ensure that the City gets maximum affordability, the City is requiring that they receive a “First Right of Refusal” in the event the Owner wants to sell the City Owned Lot property with improvements constructed with CDBG-DR funds. The Owner must contact the City one hundred and twenty (120) days prior to the anticipated listing date of the Property and inform them of the anticipate sale. The City will have the right to Purchase the Property for Fair Market Value, less the amount remaining on the Promissory Note, so that the Owner will be paid for their “equity” established in the home during the Compliance Period. IF the City elects not to purchase the Property, the Owner may list it for sale to a qualified LMI person or persons. The Owner cannot demand the City buy the property.

Key Terms of the LURA and Promissory Note

The Promissory Note will be in the form of a Deferred Forgivable Loan over a 30 year period. The Loan will be forgiven at the rate of 3.33% a year until the Loan is extinguished. The Applicant will receive a credit against the amount for each full year they remain in the Property (if absent more than 120 days in any year will count as having abandoned the property). they will be credited with a 3.33% reduction in the Note up to 30 years. If at the end of the 30 year period the Applicant has remained in the home the Loan and the LURA will be released and the home will have no further restrictions. If the Applicant elects to move out of the Property, during the course of the 30 Year LURA, they must first offer the City the Home at Fair Market Value or sell to an LMI Household for an amount that allows the household to acquire the home without exceeding the Home Affordable Housing Amount (not more than 30% of Gross Income going to Housing). The amount remaining on the Note will not need to be repaid to the City if the buyer is an LMI family if the LURA remains in effect. If not, the Applicant will need to repay the City for the full amount remaining on the Note. The Note will feature a cost for the land.

The recapture amount is the actual percentage of the amount of the original appraised value and shall be adjusted annually as set forth in the following table:

<table>
<thead>
<tr>
<th>Date of sale or transfer</th>
<th>Percentage to be Recaptured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than year from date</td>
<td>100%</td>
</tr>
<tr>
<td>More than 1 year but less than 2 years</td>
<td>96.67%</td>
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<tr>
<td>More than 2 years but less than 3 years</td>
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<td>90.01%</td>
</tr>
<tr>
<td>More than 4 years but less than 5 years</td>
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<td>80.02%</td>
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<tr>
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<tr>
<td>Age Range</td>
<td>Percentage</td>
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<tr>
<td>More than 28 years but less than 29 years</td>
<td>6.76%</td>
</tr>
<tr>
<td>More than 29 years but less than 30 years</td>
<td>3.44%</td>
</tr>
</tbody>
</table>

Qualifying period for forgiveness will be in full year increments. In order to qualify for a year of forgiveness, all 365 (or 366 in leap years) days will determine the year, not a calendar year. For example if the Promissory Note and LURA are signed on June 30, the annual credit will be earned on June 29 the following year. The Applicant will need to meet the Internal Revenue Service definition of being a resident of the home to qualify for forgiveness.

Example: The homeowner seeks to sell the property after occupying it continuously for 15 years. The property owner would contact the City 120 days prior to putting the property up for sale. If the City exercises its option, they will determine a Fair Market Price and buy the property and restart the LURA for a 30 year period with a new LMI household. If the City does not exercise its Right of First Refusal, then the Applicant may list the property for sale with the stipulation that the property must be sold to a LMI household for a price that allows an LMI family to pay for the house without exceeding 30% of the gross income of LMI family of four (or six for a larger home) in the Metropolitan Statistical Area containing San Marcos. If the Applicant is not able to sell the home to an LMI Household, the Applicant can sell the home on the open market, but must repay the City the balance of the Promissory Note—in this case 15 years or 50% of the original balance of the Promissory Note.

Key terms of the LURA

The LURA is a legally binding covenant that runs with the land and will be enforceable for up to 30 years. The LURA will limit the ability to sell the Property and the improvements on the land. The Applicant should be provided an opportunity to discuss the transfer with their own legal counsel if they desire. The City will provide a lot approved for residential construction and will utilize CDBG-DR funds to construct a home for the Applicant. In exchange for the City Owned property and the CDBG-DR construction, the Applicant must surrender all rights to their prior property (land or MHU) and agree to the Promissory Note and the LURA. The LURA is available for review as CDBG-DR-00-25. Key Provisions of the LURA include:

TERM OF DECLARATION

(a) The LURA, even if not filed in the Property Records until a later date, shall become effective with respect to Property on the Effective Date.
(b) Notwithstanding subsection (a) above the terms of this agreement shall be modified as applicable in certain limited circumstances described below in section (2), this Declaration shall terminate:

(1) If the assisted homeowner continues to occupy the home until the term of the note expires, the owner pays nothing and there are no conditions on the disposition of the property. If the property is sold, transferred or vacated by the assisted homeowner for any period that exceeds One-hundred twenty (120) days during the term of the forgivable loan period, the repayment terms of the Note will be enforced. If the assisted homeowner for any reason (other than the cases illustrated in 2. below) ceases to reside in the assisted unit during the City’s CDBG-DR contract period, only LMI persons may reoccupy the unit until the contract is administratively closed by the City or the CDBG-DR contract period expires, whichever is earlier.

(2) Accelerated Forgiveness in Certain Cases: In the event of (a) the death, (b) relocation to a managed care facility, or (c) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the City may, at its sole discretion, forgive any remaining loan balance or exercise the City’s Right of First Refusal.

ENFORCEMENT, ADMINISTRATION AND COMPLIANCE

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of the LURA.

(b) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the LURA is to assure compliance with the Policy for Right of First Refusal and the 30 year Compliance Period.

(c) The Owner agrees the City may, at reasonable times and upon adequate notice at any time during the construction, rehabilitation, or post occupation, enter and inspect the Development to evaluate its physical and financial condition, construction, rehabilitation, operation, management, and maintenance.

(d) The Owner agrees that it will respond to requests for proof of ownership and habitation by the City.

ESTABLISHING THE SALES PRICE OF THE PROPERTY

The LURA anticipates three (3) different pricing models:

City Right of First Refusal Fair Market Price— Will be established based on the value of three recently sold houses within a four block area surrounding the home less the amount of funding remaining for not completing the Compliance Period on the Promissory Note. If not a sufficient number of homes have been sold in an arms-length transaction within the past year, then at the city’s expense, an independent appraiser registered with the State of Texas shall conduct an appraisal on the current value of the home. This option occurs only when the City, in its sole discretion, exercises its Right of First Refusal. The Applicant cannot demand that the City buy the home.
Purchase Price for Sale to LMI Household—Means the best price the Seller can obtain that allows an LMI person(s) to acquire the Property for an amount that will allow the home to remain as Affordable Housing where the payment (not to include taxes of insurance) of any note or mortgage to not exceed 30% of the gross income of an LMI Family of four (4) for two bedrooms or an LMI Household of six (6) based on the San Marcos MSA in the year of the sale.

Market Rate Sale Price—Means the best available price for the home based on an arms-length third party Buyer in Good Faith. Market Rate Price anticipates that the home will no longer be affordable housing and requires a recapture to the City for the balance of the Promissory Note.

REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner must be willing to provide the following representations, covenants and warranties as part of the Land Use Restriction Agreement:

a) The Owner possesses all legal right, power and authority to execute and deliver a Land Use Restriction Agreement as is provided as CDBG-DR Form 0025.

b) The Owner has, at the time of execution and delivery of the Land Use Restriction Agreement, good and indefeasible fee simple title to, or a leasehold interest, free and clear of any lien, charge, or other encumbrance, except those created by any loan documents relating to the Program, or those which are created pursuant to this Declaration for the Transferred Property to be transferred to the City. If a Lien exists it will be extinguished or transferred under program rules before transfer to the City.

c) The Owner agrees to notify the City in writing of any sale, transfer, or exchange of the property, and to provide to the City the name(s) and address(es) of such prospective buyer before the sale is complete for City approval. In the case of a First Right of Refusal allowed to the City, the Owner will notify the city prior to listing. If the Owner fails to notice the City prior to a listing for sale, the Owner shall be responsible to any fees due to a party who has signed a contract to assist with the sale and will not be included in the Fair Market Value price.

d) The Owner represents, warrants, and agrees they will maintain sufficient casualty and hazard insurance on the new CDBG-ER property so that if any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the property to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and to continuously act in accordance with the terms of this Declaration.

e) The Owner will continue to maintain the property in good repair and pay all taxes and assessments due against the Property.

f) For the duration of the Compliance Period if the Property was provided to the Owner as part of the Program, the Owner agrees that the sale of this property is subject to the Right of First Refusal by the City at Fair Market Price. In the event the City does not exercise its First Right of Refusal, during the Compliance Period, the Owner must offer the property for sale to LMI
person(s) at a Purchase Price that allows the Buyer in Good Faith to occupy the property as Affordable Housing. The Owner has no right to demand the City purchase the Property.

g) The Owner will cooperate with the City for annual Compliance Period materials as requested.

h) No secondary financing instruments may be filed against this property without express authorization from the City. In addition, in the event that the City authorizes a secondary financing instrument, this LURA will remain superior to any subsequent instruments.

**OWNER MAY OCCUPY HOME UNTIL CONSTRUCTION COMPLETE**

The Owner may continue to occupy the original home (ineligible lot improvements or damaged MHU) until the construction is completed. The Owner must maintain insurance on the property during the construction period if they chose to live in the damaged improvements or MHU. The Property will transfer to the City eight (8) days after the Owner is provided with keys to the new Property. The Owner must evacuate and take all belongings from the Property within seven (7) days from the key passing meeting. Any property remaining will be disposed of as part of the demolition. Any bulk items (old appliances, cars on the lot, trash) will be disposed of and billed to the owner for the disposal.

**CONSTRUCTION OF PROPERTY**

Once the Applicant has been qualified in the RCOP Program and a lot chosen, the construction will follow all the rules of the CDBG-DR program and all processes will be the same as though the home was rebuilt on the owner's land.
THE RCOP PROGRAM PLACES RESTRICTIVE COVENANTS ON THE PROPERTY THAT MAY LIMIT THE FUTURE SALE OF THE PROPERTY. THE APPLICANT SHOULD DISCUSS WITH LEGAL COUNSEL PRIOR TO PARTICIPATING IN THE PROGRAM.

The RCOP provides an opportunity for Applicants that would otherwise not be eligible for the CDBG-DR program to receive benefits in the form of a no cost to Applicant City Owned Residential Lot and a CDBG-DR financed stick built home.

To participate in the RCOP Program, the Applicant must surrender all rights in the ineligible property and all improvements thereon or in the case of a Manufactured Housing Unit (MHU) transfer ownership of the MHU to the City for demolition.

Key Terms to Understand

- The Applicant will surrender all rights to existing property
- The Applicant will be required to sign a deferred forgivable loan for a period of 30 years
- The applicant will be required to sign a Land Use Restriction Agreement that generally will:
  - Provide a First Right of Refusal to the City if Owner desires to sell for 30 years
  - Limit the sale of the Property to Low-to-Moderate Income Households for 30 years and get approval of sale by the City
  - Require a payback to the City for any years where a Low-Moderate Income Household does not occupy the home
  - Establishes a mechanism for approving the sale price of the Property
- Require that insurance and taxes remain current on the Property
- Require that the Owner provide proof that they not only own but also occupy the Property

Do not agree to participate in the RCOP Program unless you fully understand the documents you are required to sign
DECLARATION OF LAND USE RESTRICTIVE COVENANTS/LAND USE RESTRICTION AGREEMENT FOR CITY OF SAN MARCOS DISASTER RECOVERY PROGRAM

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS/LAND USE RESTRICTION AGREEMENT FOR CITY OF SAN MARCOS DISASTER RECOVERY PROGRAM (this “Declaration”), dated as of DATE OF LURA, is made by and between OWNER (“Owner”) and the CITY OF SAN MARCOS (“City”), collectively “Parties,” and is given by Owner as a guarantee for terms required under the Policies and Procedures. The Owner acknowledges that the terms of this Land Use Restriction Agreement (“LURA”) could potentially impact the sale of the property and may lead to recapture of funds if the terms of the LURA are not met.

SECTION 1 - DEFINITIONS

Unless the context otherwise requires, and in addition to those terms defined in the recitals set forth above, capitalized terms used in this Declaration shall have the following meanings:

**Affordable Housing**—Means that the cost to live in the Property would not exceed 30% of the gross income for an LMI family of four or six utilizing the HUD table in place in the year of the sale for LMI income for the San Marcos MSA.

**Anniversary Date**—Means 365 or 366 days from the Effective Date depending on the number of days in calendar year. For purposes of the Deferred Forgivable Loan, owner must live in the property through the anniversary date of the year to receive credit for any part of the year. For example, if the Effective Date is June 30 of a year, a single year of compliance period would end June 29 the following year.

**Buyer in Good Faith**—Means a bona fide buyer who is willing and able to buy the Property under the terms and conditions of this LURA.

**City**—Means the City of San Marcos.

**Compliance Monitoring Procedures**—Means those procedures and requirements adopted or imposed by the City and modified by the City from time to time, for the purpose of discharging its responsibilities pursuant to the Grant including, but not limited to the Single Family Owner-Occupied Housing Rehabilitation and Reconstruction Policy.

**Compliance Period**—Means the length of Term required under the Policy as listed below and as indicated in the Note:

<table>
<thead>
<tr>
<th>Amount of Assistance</th>
<th>Length of Forgivable Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reconstruction/New Construction</td>
<td>30 years</td>
</tr>
</tbody>
</table>

The Compliance Period shall begin on the Effective Date and end after the Term of the Compliance has been met on the Anniversary date.

**Effective Date**—Means the date in the preamble of this LURA.
**Fair Market Price**—Will be established based on the value of three recently sold houses within a four block area surrounding the home less the amount of funding remaining for not completing the Compliance Period on the Promissory Note. If not a sufficient number of homes have been sold in an arms-length transaction within the past year, then at the city’s expense, an independent appraiser registered with the State of Texas shall conduct an appraisal on the current value of the home.

**LMI (Low to Moderate Income)**—Will be determined by utilizing HUD’s LMI table for the San Marcos MSA at the time of the sale of the property. If it is a two bedroom home, the income levels for a family of four (4) will be utilized more than two bedrooms the income levels for a family of six (6) will be utilized.

**LURA or Declaration**—Means this restrictive covenant when executed by the Parties.

**MSA**—Means HUD Metropolitan Statistical Area that includes San Marcos when a sale event occurs.

**Note**—Means the Note signed between the Owner and the City that sets the length of the Deferred Forgivable Loan and included as Addendum B.

**Policy**—Means the City of San Marcos Single Family Owner Occupied Rehabilitation and Reconstruction Policy as it may be amended from time to time.

**Program**—Means the City of San Marcos Disaster Recovery Program.

**Property**—Means the land associated with the repair, reconstruction or construction including the improvements on the land constructed or repaired by the City.

**Purchase Price**—Means the best available price that allows an LMI person(s) to acquire the Property for an amount that will allow the home to remain as Affordable Housing where the payment (not to include taxes of insurance) of any note or mortgage to not exceed 30% of the gross income of an LMI Family of four (4) for two bedrooms or an LMI Household of six (6) based on the San Marcos MSA in the year of the sale.

**Right of First Refusal**—Means the City has the right to purchase the land and improvements on the land provided by the city for any HAP program prior to sale to the general public. The owner must provide notice to the city at least 120 days prior to offering the property for sale. The City may elect to purchase the home for the Fair Market Price.

**Term**—Means the length of time this Declaration shall remain in effect as set out in Section 4 hereof.

**Transferred Property**—Means the underlying land and improvements or the Manufactured Housing Unit used to establish eligibility for the Program.

**SECTION 2 – RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND**

(a) The City shall cause this Declaration and all amendments hereto to be recorded and filed in the official real property records in Hays County. Upon recording, the City shall transmit to the Owner a copy of the filed LURA stamped by Hays County to show the date of recordation and the volume and page numbers of record where the recorded document may be found.
The Owner shall obtain the written consent of any existing lienholder of record on the Development to this Declaration and the requirements hereof prior to participation in the program. The Owner represents and warrants to the Department that attached hereto as Addendum A and made a part hereof is an executed and acknowledged “Consent and Subordination of Lienholder” from each existing lienholder, if any, as of the effective date hereof.

SECTION 3 – REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner hereby represents covenants and warrants as follows:

(a) The Owner possesses all legal right, power and authority to execute and deliver this Declaration.

(b) The Owner has, at the time of execution and delivery of this Declaration, good and indefeasible fee simple title to, or a leasehold interest, free and clear of any lien, charge, or other encumbrance, except those created by any loan documents relating to the Program, or those which are created pursuant to this Declaration for the Transferred Property to be transferred to the City. If a Lien exists it will be extinguished or transferred under program rules before transfer to the City.

(c) The Owner agrees to notify the City in writing of any sale, transfer, or exchange of the property, and to provide to the City the name(s) and address(es) of such prospective buyer before the sale is complete for City approval. In the case of a First Right of Refusal allowed to the City, the Owner will notify the city prior to listing. If the Owner fails to notice the City prior to a listing for sale, the Owner shall be responsible to any fees due to a party who has signed a contract to assist with the sale and will not be included in the Fair Market Value price.

(d) The Owner represents, warrants, and agrees they will maintain sufficient casualty and hazard insurance on the Property so that if any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the property to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and to continuously act in accordance with the terms of this Declaration.

(e) The Owner will continue to maintain the Property in good repair and pay all taxes and assessments due against the Property.

(f) For the duration of the Compliance Period if the Property was provided to the Owner as part of the Program, the Owner agrees that the sale of this property is subject to the Right of First Refusal by the City at Fair Market Price. In the event the City does not exercise its First Right of Refusal, during the Compliance Period, the Owner must offer the property for sale to LMI person(s) at a Purchase Price that allows the Buyer in Good Faith to occupy the property as Affordable Housing. The Owner has no right to demand the City purchase the Property.

(g) The Owner will cooperate with the City for annual Compliance Period materials as requested.

(h) Nothing in this LURA provides a Third Party Right of Action or creates any independent rights for the purchase of this Property by any individual or organization. The City’s First Right of Refusal must be exercised on the voluntary sale of the home. In the event of Condemnation or eminent domain, the city policies regarding those governmental action shall control over this LURA.

(i) No secondary financing instruments may be filed against this property without express authorization from the City. In addition, in the event that the City authorizes a secondary financing instrument, this LURA will remain superior to any subsequent instruments.
SECTION 4 – TERM OF DECLARATION

(a) This Declaration, even if not filed in the Property Records until a later date, shall become effective with respect to Property on the Effective Date.

(b) Notwithstanding subsection (a) above the terms of this agreement shall be modified as applicable in certain limited circumstances described below in section (2), this Declaration shall terminate:

   (1) If the assisted homeowner continues to occupy the home until the term of the note expires, the owner pays nothing and there are no conditions on the disposition of the property. If the property is sold, transferred or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the term of the forgivable loan period, the repayment terms of the Note will be enforced. If the assisted homeowner for any reason (other than the cases illustrated in 2. below) ceases to reside in the assisted unit during the City’s CDBG-DR contract period, only LMI persons may reoccupy the unit until the contract is administratively closed by the Department or the CDBG-DR contract period expires, whichever is earlier.

   (2) Accelerated Forgiveness in Certain Cases: In the event of (a) the death, (b) relocation to a managed care facility, or (c) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the City may, at its sole discretion, forgive any remaining loan balance or exercise the City’s Right of First Refusal.

SECTION 5– ENFORCEMENT, ADMINISTRATION AND COMPLIANCE

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of this Declaration or the Policy.

(b) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Declaration is to assure compliance with the Policy.

(c) The Owner agrees the City may, at reasonable times and upon adequate notice at any time during the construction, rehabilitation, or post occupation, enter and inspect the Development to evaluate its physical and financial condition, construction, rehabilitation, operation, management, and maintenance.

(d) The Owner agrees that it will respond to requests for proof of ownership and habitation by the City.

SECTION 6 - MISCELLANEOUS

(a) Severability. This Declaration is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Declaration or the Application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Declaration and the Application of such provision to other persons or circumstances
shall not be affected thereby, but rather shall remain in full force and effect and may be enforced to the
greatest extent permitted by law and in the manner that best carries out the purposes of this Declaration.

(b) **Notices.** All notices to be given pursuant to this Declaration shall be in writing and shall be deemed
given when mailed by certified or registered mail, return receipt requested, delivered by hand, or delivered
by any other method permitted by law, to the parties hereto at the addresses set forth below, or to such other
place as a party may from time to time designate in writing.

**TO THE CITY:**

City of San Marcos
630 E. Hopkins Street
San Marcos, Texas 78666

**TO THE OWNER:**

Owner
CITY, STATE, ZIP
ATTN:

The City, and the Owner, may, by notice given hereunder, designate any further or different addresses to
which subsequent notices, certificates or other communications shall be sent.

(c) **Amendment.** This Agreement may not be amended or modified except by written instrument executed
by both Owner and City unless otherwise agreed to herein.

(d) **Governing Law.** This Declaration shall be governed by the laws of the State of Texas, and, where
applicable, the laws of the United States of America.

(e) **Survival of Obligations.** The obligations of the Owner as set forth herein and in the Application shall
survive the rehabilitation, reconstruction, or new construction of the Property.

(f) **Interpretation.** The City’s interpretation of this Declaration shall be controlling for purposes of
determining whether (i) the Compliance Period and (ii) this Declaration has been terminated in
accordance with Section 5 hereof.

In Witness Whereof the Owner and the City have Caused this Declaration to be signed by their Duly
Authorized Representatives, as of the day and year first written above.

**For Owner:**

___________________________________________
The State of Texas §
County of Hays §

On this the ____________ day of _________, 20___, before me appeared _________________________ who provided me with government issued photo identification, acknowledged the above information as true and correct and fully executed the forgoing instrument.

__________________________________________
Notary Public

My Commission Expires _____________________

For City:

__________________________________________

The State of Texas §
County of Hays §

On this the ____________ day of _________, 20___, before me appeared _________________________ who provided me with government issued photo identification, acknowledged the above information as true and correct and fully executed the forgoing instrument.

__________________________________________
Notary Public

My Commission Expires _____________________
Addendum A to Declaration—Consent and Subordination of Lien Holder
(if necessary for any lien holder)

The undersigned lien holder hereby consents to the execution by Owner of the Property located at _______________________________ and the Lien Holder hereby subordinates its lien to the Rights and interests Created Pursuant to the Declaration.

Lien Holder acknowledges and agrees that, Pursuant to Section 4(B)(1) of the Declaration will terminate upon foreclosure or deed in lieu of foreclosure upon the recorded declaration but the Declaration may create a limitation on the sale of the home.

Executed to be effective the _____ day of _______________________, 20__. 

___________________________________
Authorized Signature of Lien Holder

The State of ___________ $
County of ___________ $

On this the __________ day of ___________, 20__, before me appeared ____________________________ who provided me with government issued photo identification, acknowledged the above information as true and correct and fully executed the forgoing instrument.

___________________________________
Notary Public

My Commission Expires __________________
ADDENDUM B
NOTE SIGNED BY HOMEOWNER
AGENDA CAPTION:
Consider approval of Ordinance 2018-11, on the first of two readings, amending the Design Manual for the Installation of Network Node Support Poles authorized by Ordinance 2017-56 to establish a daily penalty of $500 for failure to relocate improperly placed equipment; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

Meeting date: May 1, 2018

Department: Public Services

Amount & Source of Funding
Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

Fiscal Note:
Prior Council Action: November 8, 2017

City Council Strategic Initiative: [Please select from the dropdown menu below]
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]

☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☒ Transportation - Choose an item.
☐ Not Applicable
Background Information:

Council approved Ordinance 2017-56 on November 8, 2017. This ordinance enacted the requirements of SB1004 which was effective September 1, 2017 and defined what cities can and cannot require related to the placement of small cell networks in public right-of-way. MuniCode contacted the City to inform the City Clerk that the Design Manual needed to be amended to provide for a daily penalty when a Network Provider fails to relocate equipment that is improperly placed. This ordinance establishes a $500 daily penalty.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Click or tap here to enter text.

AGENDA CAPTION:

Meeting date: May 1, 2018 - 1st Reading
               May 15, 2018 - 2nd Reading

Department: Public Services/Tom Taggart

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Improve and Maintain City Infrastructure
ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING SECTION FOUR OF THE DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODE SUPPORT POLES AUTHORIZED BY ORDINANCE 2017-56 TO ESTABLISH A DAILY PENALTY OF $500 FOR FAILURE TO RELOCATE IMPROPERLY PLACED EQUIPMENT; REPEALING ALL ORDINANCES IN CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Section 4(B)(4)(b) of the City of San Marcos Design Manual for the Installation of Network Nodes and Node Support Poles authorized by Ordinance 2017-56 is hereby amended to read as follows:

b. Notice to Remove unauthorized facilities and relocate and penalty: After 30 days’ notice to remove of Network Node facilities, Node Support Poles or ground equipment that is located in the incorrect permitted location, if not relocated the Network Provider shall be subject to a penalty of $500 per day penalty until the Network Node facilities, Node Support Poles or ground equipment is relocated to the correct area within the permitted Location, regardless of whether or not the Network Provider’s contractor, subcontractor, or vendor installed the Network Node facilities, Node Support Poles or ground equipment in strict conformity with the City Rights-of-way management ord., and other applicable ordinances concerning improperly located facilities in the rights-of-way.

SECTION 2. If any word, phrase, clause, sentence, or paragraph of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 3. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 4. This ordinance shall become effective upon its adoption on second reading.

CONSIDERED AND APPROVED on first reading on May 1, 2018.

CONSIDERED, APPROVED, AND ADOPTED on second reading on May 15, 2018.
John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk

Approved:

Michael J. Cosentino
City Attorney
ORDINANCE NO. 2017- 56

AN ORDINANCE OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 74 OF THE CODE OF ORDINANCES TO ADD A NEW ARTICLE 7 TO PROVIDE A FRAMEWORK FOR THE DEPLOYMENT OF NETWORK NODES AND NODE SUPPORT POLES IN THE RIGHT-OF-WAY BY NETWORK PROVIDERS IN ACCORDANCE WITH SENATE BILL 1004 CODIFIED AS TEXAS LOCAL GOVERNMENT CODE CHAPTER 284; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. The City of San Marcos ("City") is charged with maintaining control of and access to the public rights-of-way to protect the health, safety and welfare of its citizens and visitors.

2. The Texas Legislature recently enacted Senate Bill 1004 codified as Chapter 284 of the Texas Local Government Code ("Chapter 284") which grants wireless network providers access to city right-of-way and the authority to construct, install, and operate network nodes (small cell antennas and related equipment) on municipally owned utility poles, city light poles, and city traffic signal poles, as well as their own poles, for the purpose of supporting network nodes.

3. The newly enacted Chapter 284 also regulates the type of information a municipality may require as part of the permitting process, establishes a fee structure, and sets deadlines that municipalities must follow as part of the permitting process.

4. It is the City Council's desire to exercise the maximum authority preserved to local governments following the creation of Chapter 284 by adopting a Design Manual for the installation and construction of network nodes and node support poles in the City's right-of-way.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, THAT:

SECTION 1. Chapter 74 of the City Code titled Streets and Sidewalks is amended by adding a new Article 7 titled Network Nodes, Node Support Poles, and Related Facilities in the Public Right-of-Way as follows:

Sec. 74.209 Definitions.

In this article:

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
Applicable codes means the uniform building, fire, electrical, plumbing, and mechanical codes adopted by the city and adopted by a recognized national code organization and any local amendments to those codes.

Collocate and collocation mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a right-of-way on or adjacent to a pole.

Design district means an area that is zoned, or otherwise designated by the code, and for which the city maintains and enforces unique design and aesthetic standards.

Designated area means an area of the city designated as a historic district or a design district where the city may require reasonable design or concealment measures for new network nodes or new node support poles.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Micro network node means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility as defined by Section 11.003 of the Texas Utilities Code and located in a public right-of-way.

Municipal park means an area that is zoned or otherwise designated by the code as a public park for the purpose of recreational activity.

Network Node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term includes: 1) equipment associated with wireless communications, including, but not limited to, distributed antenna systems (DAS) and small cells; 2) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and 3) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation. The term does not include: 1) an electric generator; 2) a pole; or 3) a macro tower as defined by Section 284.002 of the Texas Local Government Code.

Network Provider means: 1) a wireless service provider, or 2) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider: a) network nodes; or b) node support poles or any other structure that supports or is capable of supporting a network node.

Node support pole means a pole installed by a network provider for the primary purpose of supporting a network node.

Pole means a service pole, municipally owned utility pole, node support pole, or utility pole.

Right-of-way means property that is publicly owned or upon which a governmental entity has an express or implied property interest held for a public purpose. Examples of such public purpose
include, by way of example and not limitation highways, streets, sidewalks, drainage facilities, sewerage and water facilities.

_Service pole_ means a pole, other than a municipally owned utility pole, owned or operated by the city and located in a right-of-way, including 1) a pole that supports traffic control functions; 2) a structure for signage; 3) a pole that supports lighting, other than a decorative pole; and 4) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

_Utility pole_ means a pole that provides 1) electric distribution with a voltage rating of not more than 34.5 kolovolts; or 2) services of a telecommunications provider as defined in Section 51.002 of the Texas Utilities Code.

_Wireless facilities_ means network nodes, node support poles, and related equipment.

_Wireless service_ means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

_Wireless service provider_ means a person that provides wireless service to the public.

_Sec. 74.210 Purpose._

(a) The purpose of this article is to facilitate the use of public right-of-way for network node deployments in accordance with Chapter 284 of the Texas Local Government Code.

(b) A network provider may use the public right-of-way in the following circumstances upon receipt of a valid permit demonstrating compliance with the city design manual:

1. construct, modify, maintain, operate, relocate and remove a network node or node support pole;
2. modify or replace a utility pole or node support pole; and
3. collocate on a pole, subject to an agreement with the city.

(c) A network provider may use the public right-of-way in the following circumstances upon receipt of a valid permit demonstrating compliance with the city design manual:

1. Install its own transport facilities; or
2. Obtain transport service from a person that is paying fees to the city to occupy the right-of-way.

_Sec. 74.211 Design manual._

(a) The City hereby adopts the Design Manual by the City of San Marcos, Texas for the Installation of Network Nodes and Node Support Poles ("Design Manual") which sets forth additional installation and construction requirements for wireless service facilities created to support network providers. Any amendments to the city wireless services design manual shall be adopted by the city council pursuant to an ordinance.
(b) A person shall comply with the wireless services design manual as a condition of approval of any application, permit, or other approval required by this article.

Sec. 74.212 Designations; concealment requirement.

(a) Design Districts. For the purposes of this article, the city herein designates the following areas as design districts:

1. The area known as the Central Business Area.
2. Areas zoned T5 and T5-D.
3. The area of the Victory Gardens Subdivision where decorative light poles have been installed; specifically, Patton Street from the Interstate Highway 35 frontage road to Roosevelt Street, on Roosevelt Street from Patton Street to Guadalupe Street, and on Wavell Street from Patton Street toward the eastern dead-end in front of the HEB Park.

(b) Municipal Parks. For the purposes of this article, the city herein designates any land zoned as a municipal park for the purposes of recreational activity as a designated area.

(c) Historic Districts. For the purposes of this article, the city herein designates any area that is designated as a historic district pursuant to local, state or federal law as a historic district as a designated area.

(d) Liberal construction. Designations provided by this section shall be liberally construed. Additional areas may be designated at any time.

(e) Concealment. Concealment of network nodes and node support poles shall be required by the city in design districts and in historic districts pursuant to Chapter 284.105 of the Texas Local Government Code.

1. It is the city’s preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

2. The network node facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible in strict accordance with the city’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Sec. 74.213 Additional Permit Application Requirements.

(a) Permit Application. A permit issued pursuant to this article is required to install a micro network node, network note, a node support pole, or a transport facility in the right-of-way and must be approved prior to excavation. The permit process to be followed is the same as the process
outlined in Section 74.154 of the City Code. In addition to the requirements set forth in this chapter and the city design manual, an application for a permit pursuant to this article shall include the following:

1) Detailed drawings, with calculations to show conformity to the limitations contained in Chapter 284, the city design manual including, but not limited to, descriptions of any required enclosures, the size of the network nodes, pole height, and visibility.

2) An analysis showing that the proposed wireless facility will not cause any interference with city public safety radio system or traffic signal light system.

3) A description of the proposed location, including whether such location will be within or adjacent to any of the following:
   a. A residential development;
   b. A designated municipal park;
   c. A designated design district;
   d. A designated historic district; or
   e. An area that has undergrounding requirements.

4) A proposal to conceal or camouflage the network node, node support pole, related equipment, or any portion thereof, if applicable;

5) City pole identification information, if applicable;

6) Written consent from owners of non-city owned infrastructure; and

7) A certificate that the network node complies with all application regulations of the Federal Communications Commission.

b) Consolidated Permits. A network provider submitting an application to install or collocate multiple network nodes may file a consolidated permit application for not more than thirty (30) network nodes.

c) Application Process Timeline. Not later than the 30th day after the date the city receives an application for a permit for a network node or node support pole, or the 10th day after the date the city receives an application for a permit for a transport facility, the city shall determine whether the application is complete and notify the applicant of that determination.

d) Application Fee. The city may charge an application fee as authorized by Section 284.156 of the Texas Local Government Code. The application fee is in addition to the annual public right-of-way rate which is currently set at $250 per network node.
Sec. 74.214 Installation and Inspections.

(a) A network provider shall, at its own cost and expense, install the network node, network node facilities, node support poles and related ground equipment in a good and workmanlike manner in accordance with this article. All work done in connection with the installation, operation, maintenance, repair, modification, or replacement of the network node, network node facilities, node support poles and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the city, state and federal government.

(b) The City may perform visual inspections of any network node, network node, node support pole or related ground equipment located in the right-of-way as deemed appropriate without notice. If the inspection requires physical contact with the network node, node support poles or related ground equipment, the city shall provide written notice to the network provider within five business days of the planned inspection. The network provider may have a representative present during the inspection.

(c) After completion of the work within the right-of-way, the network provider shall provide to the city copies of maps and construction records of the permitted facilities as they are actually constructed in the right-of-way and shall provide additional copies of the maps and records to the city upon request.

Sec. 74.215 Collocation.

A network provider shall collocate network nodes on poles pursuant to an agreement with the City.

Sec. 74.216 Replacement, Maintenance and Repair.

(a) A network provider shall provide the city with ten days advance written notice of the following activities in the right-of-way:

(1) Routine maintenance that does not require excavation or the closing of sidewalks or vehicular lanes;

(2) Replacement or upgrading a network node or pole with a network node or pole that is substantially similar in size or smaller and that does not require excavation or the closing of sidewalks or vehicular lanes; and

(3) The installation, placement, maintenance, operation, or replacement of network nodes that are strung on cables between existing poles or node support poles in compliance with the National Electrical Safety Code.

(b) A network provider shall comply with the requirements of this chapter and all other applicable codes and ordinances, when installing, replacing, maintaining, repairing, upgrading, removing, relocating or operating network nodes, network node facilities, node support poles and related ground equipment.
Sec. 74.217 Relocation.

Except as provided in state and federal law, a network provider shall relocate or adjust network nodes in a public right-of-way, as determined by the city, within ninety days and without cost to the city.

Sec. 74.218 Ownership.

No part of a micro network node, network node, node support pole and related ground equipment erected or placed on the right-of-way by a network provider will become, or be considered by the city as being affixed to or a part of, the right-of-way. All portions of the micro network node, network node, node support pole and related ground equipment constructed, modified, erected, or placed by the network provider on the right-of-way will be and remain the property of the network provider and may be removed by the network provider at any time, provided the network provider shall notify the City Manager prior to any work in the right-of-way.

Sec. 74.219 Signage.

(a) A network provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the network node facility that is visible to the public. Signage required under this section shall not exceed 4” x 6”, unless otherwise required by law (e.g. RF ground notification signs) or the City Manager.

(b) Except as required by any local, state or federal law or by the utility pole owner, the network provider shall not post any other signage or advertising on the micro network node, network node, node support pole, service pole or utility pole.

Sec. 74.220 Indemnity.

To the extent authorized by law, the network provider shall indemnify and hold the city and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including attorney’s fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found to be caused, or other harm for which recovery of damages is sought that is found to be caused by the negligent act, error, or omission of the user of the right-of-way, any agent, officer, director, representative, employee, directors, or representatives, while installing, repairing, or maintaining facilities in a right-of-way.

Sec. 74.221 Graffiti Abatement.

As soon as practical, but not later than fourteen (14) calendar days from the date the network provider receives notice, the network provider shall remove all graffiti on any of its micro network node, network node, node support pole, and related ground equipment located in the right-of-way. The foregoing shall not relieve the network provider from complying with any City graffiti or visual blight ordinance or regulation.
Sec. 74.222 Restoration.

The network provider shall repair any damage to the right-of-way, or any facilities located within the right-of-way, and the property of any third party resulting from the network provider’s removal or relocation activities within ten calendar days following the date of such removal or relocation, at the service provider’s sole cost and expense, including restoration of the right-of-way and such property to substantially the same condition as it was immediately before the date the network provider was granted a permit for the applicable location or did the work at such location (even if the network provider did not first obtain a permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the City Manager.

Sec. 74.223 Network Provider’s Responsibility.

The network provider shall be responsible and liable for the acts and omissions of its employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, and subcontractors in connection with the installation of any micro network node, network node, node support pole and related ground equipment, as if such acts or omissions were the network provider’s acts or omissions.

SECTION 2. The City Council hereby approves the Design Manual of the City of San Marcos for the Installation of Network Nodes and Node Support Poles pursuant to Chapter 284 of the Texas Local Government Code which is attached hereto as Exhibit A.

SECTION 3. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 4. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 5. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 6. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on October 17, 2017.

PASSED, APPROVED AND ADOPTED on second reading on November 8, 2017.

John Thomaides
Mayor
City of San Marcos
Design Manual
for the
Installation of Network Nodes and Node Support Poles
pursuant to Tex. Loc. Gov. Code, Chapter 284.
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SECTION 1. PURPOSE AND APPLICABILITY.

The City of San Marcos ("City") recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities.


As expressly allowed by Tex. Loc. Gov. Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Sec. 284.301, the City enacts these Design Guidelines in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment.

Applicability: This Design Manual is for siting and criteria for the installation Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Loc. Gov. Code, Chapter 284

This Design Manual shall apply to any sitings, installations, collocations in, on, over or under the public rights-of-way of Network nodes, Node support poles, Micro network nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law.

City Rights-of-Way Management Ordinance: A Network Provider shall comply with the City’s Rights-of-Way Management Ordinance except where in conflict with this Design Manual or Chapter 284, Subchapter C.

SECTION 2. DEFINITIONS.

The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual, unless otherwise noted in this Section 2, below.

Abandon and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by Provider in an unused or non-functioning condition for more than 120 consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.
Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes means:
(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
(B) local amendments to those codes to the extent not inconsistent with Chapter 284.

City means the City of San Marcos, Texas or its lawful successor.

City Manager shall mean City Manager or designee.


Collocate and collocation mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment or Camouflaged means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

Decorative pole means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

Design District means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Disaster emergency or disaster or emergency means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city state or federal governmental authorities.

Distributed Antenna System or DAS shall be included as a type of “Network Node.”

Easement means and shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.
Federal Communications Commission or FCC means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

Highway right-of-way means right-of-way adjacent to a state or federal highway.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Law means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Local means within the geographical boundaries of the City.

Location means the City approved and lawfully permitted location for the Network Node.

Macro tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

Mayor means the Mayor for the City.

Micro network node means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipal park means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.


Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:
   (i) equipment associated with wireless communications;
   (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
   (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:
   (i) an electric generator;
   (ii) a pole; or
   (iii) a macro tower.
Network provider means:
(A) a wireless service provider; or
(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
   (i) network nodes; or
   (ii) node support poles or any other structure that supports or is capable of
        supporting a network node.

Node support pole means a pole installed by a network provider for the primary purpose of
supporting a network node.

Permit means a written authorization for the use of the public right-of-way or collocation on a
service pole required from a municipality before a network provider may perform an action or
initiate, continue, or complete a project over which the municipality has police power authority.

Pole means a service pole, municipally owned utility pole, node support pole, or utility pole.

Private easement means an easement or other real property right that is only for the benefit of the
grantor and grantee and their successors and assigns.

Provider has the same meaning as “Network Provider.”

Public right-of-way means the area on, below, or above a public roadway, highway, street, public
sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The
term does not include:
   (A) a private easement; or
   (B) the airwaves above a public right-of-way with regard to wireless
telecommunications.

Public right-of-way management ordinance means an ordinance that complies with Chapter 284,
Subchapter C.

Service pole means a pole, other than a municipally owned utility pole, owned or operated by a
municipality and located in a public right-of-way, including:
   (A) a pole that supports traffic control functions;
   (B) a structure for signage;
   (C) a pole that supports lighting, other than a decorative pole; and
   (D) a pole or similar structure owned or operated by a municipality and supporting only
        network nodes.

Small cell shall be included as a type of “Network Node.”

Street means only the paved portion of the right-of-way used for vehicular travel, being the area
between the inside of the curb to the inside of the opposite curb, or the area between the two
parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is
generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-
way may include sidewalks and utility easements, a “Street” does not. A “street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

SWPPP shall mean Storm Water Pollution Prevention Plan.

TAS means Texas Accessibility Standards.

Traffic Signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Underground Requirement Area shall mean means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility pole means a pole that provides:
   (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
   (B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

Wireless service provider means a person that provides wireless service to the public.

Wireless facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code Chapter 284.

SECTION 3. PROHIBITED AND PREFERRED LOCATIONS OF MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

A. Prohibited or Restricted Areas for Certain Wireless facilities, except with Separate City Agreement or Subject to Concealment Conditions.

1. Municipal Parks and Residential Areas. In accordance with Chapter 284, Sec. 284.104 (a), a Network Provider may not install a Node Support Pole in a public right-of-way
without the City's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a Municipal park or is adjacent to a street or thoroughfare that is:

(1) not more than 50 feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two parallel edges of the paved roadway for vehicular travel where there is no curb; and

(2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

1.1. In accordance with Chapter 284, Sec. 284.104 (b), a Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities. Each permit application shall disclose if it is within a Municipal Park and Residential Areas as described above.

2. **Historic District and Design Districts.** In accordance with Chapter 284, Sec. 284.105, a Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

2.1. As a condition for approval of Network Nodes or Node Support Poles in Design Districts with Decorative Poles or in a Historic District, the City shall require reasonable design or Concealment measures for the Network Nodes or Node Support Poles. Therefore, any request for installations in a Design District with Decorative Poles or in a Historic District, must be accompanied with proposed Concealment measures in the permit applications.

2.2. The City request that a Network Provider explore the feasibility of using Camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in Design Districts or in an Historic District.

2.3. Network Provider shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.

2.4. Each permit application shall disclose if it is within a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

3. **Historic Landmarks.** A Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government (see, for example, and not limited to §442.001(3) of the Texas Government Code, and 16 U.S.C. §470), as of the date of the submission of the permit. It is recommended that each permit application disclose if it is with 300 feet of such a structure.
4. **Compliance with Undergrounding Requirements.** In accordance with Chapter 284, Sec. 284.107, a Network Provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

4.1 Areas may be designated from time to time by the City as Underground Requirement Areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

4.2 Each permit application shall disclose if it is within an area that has undergrounding requirements.

**B. Least preferable locations.**

1. **Residential Areas and Parks.** A Network Provider is discouraged from installing a Network Node on an existing pole in a public right-of-way without written consent from the City Council if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

   1.1 In accordance with Chapter 284, Sec. 284.104 (b) a Network Provider installing a Network Node or a Node Support Pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

2. **Historic Districts and Design Districts.** A Network Provider is discouraged from installing a Network Node or a Node Support Pole in the public right-of-way in any area designated by the City as a Design Districts or in an area of the City zoned or otherwise designated as a Historic District unless such a Network Node or a new Node Support Pole is camouflaged.

**C. Most preferable locations**

1. **Industrial areas** if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

2. **Highway Rights-of-Way** areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

3. **Retail and Commercial areas** if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

**D. Designated Areas.**

1. The City Council may designate an area as a Historic District or a Design District under Chapter 284.105 at any time.

2. Currently designated **Historic Districts** are:
(a) Historic District Number 1 is the area referred to as Belvin Street Historic District.
(b) Historic District Number 2 is the area referred to as the Downtown Historic District.
(c) Historic District Number 3 is the area referred to as the San Antonio Street Historic District.
(d) Historic District Number 4 is the area referred to as the Lindsey-Rogers Historic District.
(e) Historic District Number 5 is the area referred to as the Burleson Historic District.
(f) Historic District Number 6 is the area referred to as the Dunbar Historic District.
(g) Historic District Number 7 is the area referred to as the Hopkins Street Historic District.

3. Currently designated Design District areas are:

(a) Design District Number 1 is the area referred to as the Central Business Area.
(b) Design District Number 2 are the areas zoned T5 and T5-D.

4. The failure to designate an area in this Chapter shall not mean that such an area is not within a defined district, if so designated by the City Council. Future areas may be designated as one of these Districts at any time. Such a designation does not require a zoning case.

E. Exceptions

The City by its discretionary consent and agreement may grant exception to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Chapter 284, Sec. 284.109 and Sec. 284.110.

F. Order of Preference regarding Network Node attachment to existing facilities and New Node Support Poles.

1. Existing telephone between existing utility poles. Micro Network Nodes shall only be lashed on existing telephone between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.
2. *Existing Utility Service (secondary) Poles* (electric poles or telephones poles), shall be the preferred support facility for Network Nodes and related ground equipment. Installation cannot hinder or impede the ability to ascend pole for repair or maintenance work on existing facilities.

3. **Municipal Service Poles:**
   a. *Non-decorative street lights* with a height of more than 20 feet.
   b. *Traffic signal structures* when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).
   c. *Street signage* shall be a low priority use for attachment of a Network Node.
   d. *Other municipal primary pole* use is discouraged.

4. *New node support poles* shall be the least preferred type of allowed facility for attachment of Network Nodes.

5. **Ground Equipment.** Ground equipment should be minimal and the least intrusive.

**SECTION 4. GUIDELINES ON PLACEMENT.**

**A. Generally.**

In accordance with Chapter 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

1. obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
2. obstruct the legal use of a public right-of-way by other utility providers;
3. violate nondiscriminatory applicable codes;
4. violate or conflict with the municipality's publicly disclosed public right-of-way management ordinance or this Design Manual.
5. violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).
6. obstruct or hinder the ability to ascend or do maintenance work on the structure.
7. violate the National Electrical Safety Code provision prohibiting placement within ten feet of energized conductors on existing utility service poles.

**B. General Requirements and Information:**

1. *Size Limits.* Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro
Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.³

2. State and Federal Rights-of-way permit. If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

3. Confirmation of non-interference with City Safety Communication or SCADA Networks.

   a. The Network Provider needs to provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, SCADA system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304.

   b. It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider’s proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be allowed on City’s public safety radio infrastructure.

4. Improperly Located Network Node facilities, Node Support Poles and related ground equipment:

   a. Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the City Manager and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Network Provider shall promptly remove the Network Node facilities, Node Support Poles or ground equipment.

   b. Notice to Remove unauthorized facilities and relocate and penalty: After 30 days’ notice to remove of Network Node facilities, Node Support Poles or ground equipment that is located in the incorrect permitted location, if not relocated the Network Provider shall be subject to a penalty of $XXXXX per day penalty until the Network Node facilities, Node Support Poles or ground equipment is relocated to the correct area within the permitted Location, regardless of whether or not the Network Provider’s contractor, subcontractor, or vendor installed the Network Node facilities, Node Support Poles or ground equipment in strict conformity with the City Rights-of-way management ord., and other applicable ordinances concerning improperly located facilities in the rights-of-way.

B. Underground Requirement Areas.

1. In accordance with Chapter 284.107, a Network Provider shall, in relation to installation for which the City approved a permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions,
that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

2. If a location is designated by the City to transits to be an Underground Requirement Area, then a Network Provider’s permit for the location of the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location will be revoked 90 days after the designation, with removal of said the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location within 90 days of such designation, or as otherwise reasonably allowed by the City for the transition of other overhead facilities.

3. Before commencing underground installation, 811 Tess must be called so that the area can be flagged for underground utilities.

C. Network Node facilities placement:

1. **Right-of-Way:** Network Node facilities, Node Support Poles and related ground equipment shall be placed, as much as possible, within two feet of the outer edge of the Right-of-Way line to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way.

2. **Height above ground.** Network Node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with Chapter 284, Sec. 284.108, and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

3. **Protrusions.** In accordance with Chapter 284, Sec. 284.003 (a) (1) (C), Sec. 284.003 (a) (2) (C) and Sec. 284.003 (a) (3) (B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

4. **Limit on number of Network Nodes per Site.** There shall be no more than one Network Node on any one Pole.


1. **New Node Support Poles Spacing.** New node support poles shall be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

2. **Height of Node Support Poles or modified Utility Pole.** In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

   (1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or
   (2) 55 feet above ground level.

E. Ground Equipment.

1. **Ground Equipment near street corners and intersections:** Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284.102 (1), to
minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum line of sight required to add to safe travel of vehicular and pedestrian traffic and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.

2. **Ground Equipment near Municipal Parks.** For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless approved by the City Manager and Parks Director in writing.

3. **Minimize Ground equipment density:**

In accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City’s designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more.

4. **Water, Sewer and Storm Drainage Lines:**

Special precautions must be taken where underground fiber optic cable is installed in public street right-of-ways commonly used for utility corridors.

a. Underground utilities and service connections must be identified prior to excavation. “Dig Alert,” “One Call,” or similar underground utility contractor must be contacted to identify the locations of subsurface utilities.

b. If temporary disruption of service is required, the installation contractor must notify the City, the service provider, and customers at least 24 hours in advance. No service on such lines may be disrupted until prior approval from the City and the service provider.

c. At locations where the fiber optic cable will cross other subsurface utilities or structures, the cable must be installed to provide a minimum of 12 inches of vertical clearance between it and the other subsurface utilities or structures, while still maintaining the other applicable minimum depth requirement. To maintain the minimum depth requirement, the cable must be installed under the existing utility. If the minimum 12-inch clearance cannot be obtained between the proposed cable facility and the existing utility, the fiber optic cable must be encased in steel pipe to avoid future damage.

d. **Existing Water Lines:** No communication lines shall be placed on top of a water line but may be placed to the side of a water line at least 4 feet from the center line of the water line. When crossing a water line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a water line.

e. **Existing Sewer Lines:** No communication lines shall be placed on top of a sewer line but may be placed to the side of a sewer line at least 4 feet from the center line of the sewer line. When crossing a sewer line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a sewer line.
f. Existing Storm Drainage Lines: No communication lines shall be placed on top of a storm drainage line but may be placed to the side of a storm drainage line at least 4 feet from the center line of the storm drainage line. When crossing a storm drainage line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a storm drainage line.

5. Blocking streets, roads, alleys or lanes:

Texas Department of Transportation (TxDOT) standards must be followed for work zone areas that will block streets, roads, alleys or lanes. A traffic plan must be submitted to the City prior to construction.

F. Municipal Service Poles:

1. In accordance with Agreement: Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).

2. Required industry standard pole load analysis: Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the municipality with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284.108. All installations must comply with the National Electrical Safety Code provision prohibiting placement within ten feet of energized conductors on existing utility service poles.

3. Height of attachments: All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Chapter 284, Sec. 285.108 (a) (1) - (2) and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

4. Installations on Traffic Signals: Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b). Installation of Network Node facilities on any traffic signal structures shall:
   i. Be encased in a separate conduit than the traffic light electronics;
   ii. Have a separate electric power connection than the traffic signal structure; and
   iii. Have a separate access point than the traffic signal structure; and

5. Installations on Street signage: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:
   i. Be encased in a separate conduit than any City signage electronics;
ii. Have a separate electric power connection than the signage structure; and,

iii. Have a separate access point than the signage structure.

6. **Restoration of City facilities and private property:** The Network Provider shall be responsible for repairing any damage to any street, street right-of-way, ditch or any structure to its original condition immediately upon completing the installation. Any change to the slope of the land must be remedied, and there must be replacement of top soil and grass to its original condition.

**SECTION 5. GENERAL AESTHETIC REQUIREMENTS**

A. **Concealment.**

1. Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284.105.

2. It is also the City’s preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

3. The Network Node facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

4. The Network Node facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible, except to the extent not consistent with Chapter 284.

B. **New Node Support Pole Spacing.**

New node support poles shall be at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

C. **Minimize Ground Equipment Concentration.**

In order to minimize negative visual impact to the surrounding area, and in accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City’s designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more to minimize effect on property values and aesthetics on the area.
D. Allowed Colors.

Colors in Historic Districts and Design Districts must be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes or policies, except to the extent not consistent with Chapter 284.

Colors in Historic Districts and Design Districts must be approved by the City Manager from a palette of approved colors. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous. Colors in areas other than in Historic Districts and Design Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

SECTION 6. ELECTRICAL SUPPLY

A. Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.

B. Network Provider shall not allow or install generators or back-up generators in the Right-of-Way in accordance with Chapter 284, Sec. 284.002 (12) (B) (1).

SECTION 7. INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS.

1. Insurance, bonding and security deposits shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

2. Indemnity shall be in accordance with Chapter 284, Sec. 284.302, as provided for in Chapter 283, Sec. 283.057 (a) and (b) of the Texas Loc. Gov’t Code.

SECTION 8. REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, REPLACEMENT, MAINTENANCE AND REPAIR

A. REMOVAL OR RELOCATION BY NETWORK PROVIDER.

1. Removal and relocation by the Network provider of its Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284
2. If the Network Provider removes or relocates a Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, it shall notify the City Manager in writing not less than 10 business days prior to removal or relocation. Network Provider shall obtain all Permits required for relocation or removal of its Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment prior to relocation or removal.

3. The City shall not issue any refunds for any amounts paid by Network Provider for Micro Network Node, Network Node facilities, Node Support Poles or related ground equipment that have been removed.

**B. REMOVAL OR RELOCATION REQUIRED FOR CITY PROJECT.**

1. Removal and Relocation of Network Provider’s Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof required for a City project shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284, Sec. 284.107, except as provided in existing state and federal law.

   1. In accordance with Chapter 284, Sec. 284.107, except as provided in existing state and federal law, a Network Provider shall relocate or adjust Micro Network Node, Network Node, Node Support Pole and related ground equipment in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way

   2. Network Provider understands and acknowledges that the City may require Network Provider to remove or relocate its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or any portion thereof from the Right-of-Way for City construction projects as allowed by state and federal law, including the common-law.

   3. Network Provider shall, at the City Manager’s direction, remove or relocate the same at Network Provider’s sole cost and expense, except as otherwise provided in existing state and federal law, whenever the City Manager reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project of a street or public rights-of-way to enhance the traveling publics use for travel and transportation.

   4. If Network Provider fails to remove or relocate the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof as requested by the City Manager within 90 days of Network Provider ’s receipt of the request, then the City shall be entitled to remove the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof at Network Provider’s sole cost and expense, without further notice to Network Provider.

   5. Network Provider shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof.

**C. REMOVAL REQUIRED BY CITY FOR SAFETY AND IMMINENT DANGER REASONS.**
1. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law in strict accordance with the City’s rights-of-way management ordinance and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider’s sole cost and expense in strict accordance with the City’s rights-of-way management ordinance and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

3. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider’s sole cost and expense.

4. The City Manager shall provide 90 days written notice to the Network Provider before removing a Micro Network Node, Network Node, Node Support Pole and related ground equipment under this Section, unless there is imminent danger to the public health, safety, and welfare.

5. Network Provider shall reimburse City for the City’s actual cost of removal of Micro Network Node, Network Node, Node Support Pole and related ground equipment within 30 days of receiving the invoice from the City.

SECTION 9. INSTALLATION AND INSPECTIONS

A. INSTALLATION.

1. Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and
workmanlike manner in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284

2. Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner and in accordance with the requirements promulgated by the City Manager, as such may be amended from time to time. Network Provider’s work shall be subject to the regulation, control and direction of the City Manager. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, applicable county, the state, and the United States (“Laws”).

B. INSPECTIONS.

1. The City Manager, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way shall be allowed in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

2. The City Manager, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way as the City Manager deems appropriate without notice. If the inspection requires physical contact with the Micro Network Node, Network Node, Node Support Poles or related ground equipment, the City Manager shall provide written notice to the Network Provider within five business days of the planned inspection. Network Provider may have a representative present during such inspection.

SECTION 10. REQUIREMENTS UPON ABANDONMENT OF OBSOLETE MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

Abandoned or obsolete Micro Network Node, Network Node, Node Support Pole and related ground equipment shall be removed in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall remove Micro Network Node, Network Node, Node Support Pole and related ground equipment when such facilities are Abandoned regardless of whether or not it receives notice from the City. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of the Micro Network Node, Network Node, Node Support Pole and related ground equipment being Abandoned or within 90 days of receipt of written notice from the City. When Network Provider removes, or Abandons permanent structures in the Right-of-Way, the Network Provider shall notify the City Manager and City Manager in writing of such removal or Abandonment and shall file with the City Manager and City Manager the location and description of each Micro Network Node, Network Node, Node Support Pole and related
ground equipment removed or Abandoned. The City Manager may require the Network Provider to complete additional remedial measures necessary for public safety and the integrity of the Right-of-Way.

SECTION 11. GENERAL PROVISIONS.

1. As Built Maps and Records. Network Provider’s as built maps and records shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

Network Provider shall maintain accurate maps and other appropriate records of its Network Node facilities, Node Support Poles and related ground equipment as they are actually constructed in the Rights-of-Way, including, upon request, the use of Auto CAD/GIS digital format. Network Provider will provide additional maps to the City upon request.

2. Courtesy and Proper Performance. Courtesy and Proper Performance of Network provider’s personnel, and contractors shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall make citizen satisfaction a priority in using the Right-of-Way. Network Provider shall train its employees to be customer service-oriented and to positively and politely interact with citizens when dealing with issues pertaining to its Micro Network Node, Network Node, Node Support Pole and related ground equipment in the Right-of-Way. Network Provider’s employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of interaction with the public. If, in the opinion of the City Manager or designee, Network Provider is not interacting in a positive and polite manner with citizens, he or she shall request Network Provider to take all remedial steps to conform to these standards.

3. DRUG POLICY. Drug policy of Network provider’s personnel, and contractors in the rights-of-way shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Network Provider’s employees, contractors, subcontractors, sub-Network Provider’s, or vendors while on City rights-of-way is prohibited.

4. ALLOCATION OF FUNDS FOR REMOVAL AND STORAGE. The City has appropriated no funds to pay for the cost of any removal or storage of Micro Network Node, Network Node, Node Support Pole and related ground equipment, as authorized under this Article.

5. OWNERSHIP. Ownership of Network Node and related equipment shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

No part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment erected or placed on the Right-of-Way by Network Provider will become, or be considered by the City as being affixed to or a part of, the Right-of-Way. All portions of the
Network Node, Network Node, Node Support Pole and related ground equipment constructed, modified, erected, or placed by Network Provider on the Right-of-Way will be and remain the property of Network Provider and may be removed by Network Provider at any time, provided the Network Provider shall notify the City Manager prior to any work in the Right-of-Way.

6. Tree Maintenance. Tree maintenance shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider, its contractors, and agents shall obtain written permission from the City Manager before trimming trees hanging over its Micro Network Node, Network Node, or Node Support Pole, to prevent branches of such trees from contacting attached Micro Network Node, Network Node, or Node Support Pole. When directed by the City Manager, Network Provider shall trim under the supervision and direction of the Parks Director. The City shall not be liable for any damages, injuries, or claims arising from Network Provider’s actions under this section.

7. Signage. Signage shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

Network Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the Network Node facility that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g. RF ground notification signs) or the City Manager.

Except as required by law or by the Utility Pole owner, Network Provider shall not post any other signage or advertising on the Micro Network Node, Network Node, Node Support Pole, Service pole or Utility Pole.

8. Graffiti Abatement. Graffiti abatement shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

As soon as practical, but not later than fourteen (14) calendar days from the date Network Provider receives notice thereof, Network Provider shall remove all graffiti on any of its Micro Network Node, Network Node, Node Support Pole, and related ground equipment located in the Right of Way. The foregoing shall not relieve the Network Provider from complying with any City graffiti or visual blight ordinance or regulation.

9. Restoration.

Network Provider shall restore and repair of the rights-of-way from any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider’s removal or relocation activities (or any other of Network Provider’s activities hereunder) in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall repair any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider’s removal or relocation activities (or any other of Network Provider’s activities hereunder) within
10 calendar days following the date of such removal or relocation, at Network Provider’s sole cost and expense, including restoration of the Right-of-Way and such property to substantially the same condition as it was immediately before the date Network Provider was granted a Permit for the applicable Location or did the work at such Location (even if Network Provider did not first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the City Manager.

10. Network provider’s responsibility.

Network Provider shall be responsible and liable for the acts and omissions of Network Provider’s employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider’s and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider’s acts or omissions in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall be responsible and liable for the acts and omissions of Network Provider’s employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider’s and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider’s acts or omissions.

SECTION 12-19 RESERVED

SECTION 20. DESIGN MANUAL - UPDATES

Placement or Modification of Micro Network Node, Network Node, Node Support Pole and related ground equipment shall comply with the City’s Design Manual at the time the Permit for installation or Modification is approved and as amended from time to time.

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1 Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS. (a) Subject to this chapter and applicable federal and state law, a municipality may continue to exercise zoning, land use, planning, and permitting authority in the municipality's boundaries, including with respect to utility poles.

(b) A municipality may exercise that authority to impose police-power-based regulations for the management of the public right-of-way that apply to all persons subject to the municipality.

(c) A municipality may impose police-power-based regulations in the management of the activities of network providers in the public right-of-way only to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.

2 The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual.

Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives
electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:
   (A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by
   a recognized national code organization; and
   (B) local amendments to those codes to the extent not inconsistent with this
   chapter.
(3) "Collocate" and "collocation" mean the installation, mounting, maintenance,
   modification, operation, or replacement of network nodes in a public right-of-way on or adjacent
   to a pole.
(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic
   purposes and on which no appurtenances or attachments, other than specially designed
   informational or directional signage or temporary holiday or special event attachments, have
   been placed or are permitted to be placed according to nondiscriminatory municipal codes.
   (5) "Design district" means an area that is zoned, or otherwise designated by municipal
   code, and for which the city maintains and enforces unique design and aesthetic standards on a
   uniform and nondiscriminatory basis.
(6) "Historic district" means an area that is zoned or otherwise designated as a historic
   district under municipal, state, or federal law.
(7) "Law" means common law or a federal, state, or local law, statute, code, rule,
   regulation, order, or ordinance.
(8) "Macro tower" means a guyed or self-supported pole or monopole greater than the
   height parameters prescribed by Section 284.103 and that supports or is capable of supporting
   antennas.
(9) "Micro network node" means a network node that is not larger in dimension than 24
   inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if
   any, not longer than 11 inches.
(10) "Municipally owned utility pole" means a utility pole owned or operated by a
    municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public
    right-of-way.
(11) "Municipal park" means an area that is zoned or otherwise designated by municipal
    code as a public park for the purpose of recreational activity.
(12) "Network node" means equipment at a fixed location that enables wireless
    communications between user equipment and a communications network. The term:
    (A) includes:
    (i) equipment associated with wireless communications;
    (ii) a radio transceiver, an antenna, a battery-only backup power supply,
    and comparable equipment, regardless of technological configuration; and
    (iii) coaxial or fiber-optic cable that is immediately adjacent to and
    directly associated with a particular collocation; and
    (B) does not include:
    (i) an electric generator;
    (ii) a pole; or
    (iii) a macro tower.
(13) "Network provider" means:
    (A) a wireless service provider; or
    (B) a person that does not provide wireless services and that is not an electric
utility but builds or installs on behalf of a wireless service provider:
   (i) network nodes; or
   (ii) node support poles or any other structure that supports or is capable of
        supporting a network node.
(14) "Node support pole" means a pole installed by a network provider for the primary
      purpose of supporting a network node.
(15) "Permit" means a written authorization for the use of the public right-of-way or
      collocation on a service pole required from a municipality before a network provider may
      perform an action or initiate, continue, or complete a project over which the municipality has
      police power authority.
(16) "Pole" means a service pole, municipally owned utility pole, node support pole, or
      utility pole.
(17) "Private easement" means an easement or other real property right that is only for
      the benefit of the grantor and grantee and their successors and assigns.
(18) "Public right-of-way" means the area on, below, or above a public roadway,
      highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality
      has an interest. The term does not include:
          (A) a private easement; or
          (B) the airwaves above a public right-of-way with regard to wireless
              telecommunications.
(19) "Public right-of-way management ordinance" means an ordinance that complies
      with Subchapter C.
(20) "Public right-of-way rate" means an annual rental charge paid by a network
      provider to a municipality related to the construction, maintenance, or operation of network
      nodes within a public right-of-way in the municipality.
(21) "Service pole" means a pole, other than a municipally owned utility pole, owned or
      operated by a municipality and located in a public right-of-way, including:
          (A) a pole that supports traffic control functions;
          (B) a structure for signage;
          (C) a pole that supports lighting, other than a decorative pole; and
          (D) a pole or similar structure owned or operated by a municipality and
              supporting only network nodes.
(22) "Transport facility" means each transmission path physically within a public right-
      of-way, extending with a physical line from a network node directly to the network, for the
      purpose of providing backhaul for network nodes.
(23) "Utility pole" means a pole that provides:
      (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
      (B) services of a telecommunications provider, as defined by Section 51.002,
      Utilities Code.
(24) "Wireless service" means any service, using licensed or unlicensed wireless
      spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the
      public using a network node.
(25) "Wireless service provider" means a person that provides wireless service to the
      public.
Sec. 284.002. DEFINITIONS (8) “Micro network node” means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:

1. each antenna that does not have exposed elements and is attached to an existing structure or pole:
   (A) must be located inside an enclosure of not more than six cubic feet in volume;
   (B) may not exceed a height of three feet above the existing structure or pole; and
   (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

2. if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna’s exposed elements:
   (A) must fit within an imaginary enclosure of not more than six cubic feet;
   (B) may not exceed a height of three feet above the existing structure or pole; and
   (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

3. the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:
   (A) be more than 28 cubic feet in volume; or
   (B) protrude from the outer circumference of the existing structure or a node support pole by more than two feet;

4. ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and

5. pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

1. electric meters;
2. concealment elements;
3. telecommunications demarcation boxes;
4. grounding equipment;
5. power transfer switches;
6. cut-off switches; and
7. vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner’s construction standards.
City of San Marcos

Design Manual

for the

Installation of Network Nodes and Node Support Poles

pursuant to Tex. Loc. Gov. Code, Chapter 284.
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SECTION 1. PURPOSE AND APPLICABILITY.

The City of San Marcos (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities.


As expressly allowed by Tex. Loc. Gov. Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Sec. 284.301, the City enacts these Design Guidelines in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment.

Applicability: This Design Manual is for siting and criteria for the installation Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Loc. Gov. Code, Chapter 284.

This Design Manual shall apply to any sittings, installations, collocations in, on, over or under the public rights-of-way of Network nodes, Node support poles, Micro network nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law.

City Rights-of-Way Management Ordinance: A Network Provider shall comply with the City’s Rights-of-Way Management Ordinance except where in conflict with this Design Manual or Chapter 284, Subchapter C.

SECTION 2. DEFINITIONS.

The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual, unless otherwise noted in this Section 2, below.

Abandon and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by Provider in an unused or non-functioning condition for more than 120 consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.
Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes means:
(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
(B) local amendments to those codes to the extent not inconsistent with Chapter 284.

City means the City of San Marcos, Texas or its lawful successor.

City Manager shall mean City Manager or designee


Collocate and collocation mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment or Camouflaged means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

Decorative pole means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

Design District means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Disaster emergency or disaster or emergency means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city state or federal governmental authorities.

Distributed Antenna System or DAS shall be included as a type of “Network Node.”

Easement means and shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.
Federal Communications Commission or FCC means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

Highway right-of-way means right-of-way adjacent to a state or federal highway.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Law means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Local means within the geographical boundaries of the City.

Location means the City approved and lawfully permitted location for the Network Node.

Macro tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

Mayor means the Mayor for the City.

Micro network node means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipal park means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.


Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:
   (i) equipment associated with wireless communications;
   (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
   (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:
   (i) an electric generator;
   (ii) a pole; or
   (iii) a macro tower.
Network provider means:
(A) a wireless service provider; or
(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
   (i) network nodes; or
   (ii) node support poles or any other structure that supports or is capable of supporting a network node.

Node support pole means a pole installed by a network provider for the primary purpose of supporting a network node.

Permit means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

Pole means a service pole, municipally owned utility pole, node support pole, or utility pole.

Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Provider has the same meaning as “Network Provider.”

Public right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:
(A) a private easement; or
(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

Public right-of-way management ordinance means an ordinance that complies with Chapter 284, Subchapter C.

Service pole means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:
(A) a pole that supports traffic control functions;
(B) a structure for signage;
(C) a pole that supports lighting, other than a decorative pole; and
(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

Small cell shall be included as a type of “Network Node.”

Street means only the paved portion of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-
way may include sidewalks and utility easements, a “Street” does not. A “street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

SWPPP shall mean Storm Water Pollution Prevention Plan.

TAS means Texas Accessibility Standards.

Traffic Signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Underground Requirement Area shall mean means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility pole means a pole that provides:
(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
(B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

Wireless service provider means a person that provides wireless service to the public.

Wireless facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code Chapter 284.

SECTION 3. PROHIBITED AND PREFERRED LOCATIONS OF MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

A. Prohibited or Restricted Areas for Certain Wireless facilities, except with Separate City Agreement or Subject to Concealment Conditions.

1. Municipal Parks and Residential Areas. In accordance with Chapter 284, Sec. 284.104 (a), a Network Provider may not install a Node Support Pole in a public right-of-way
without the City's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a Municipal park or is adjacent to a street or thoroughfare that is:

(1) not more than 50 feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two parallel edges of the paved roadway for vehicular travel where there is no curb; and

(2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

1.1. In accordance with Chapter 284, Sec. 284.104 (b), a Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities. Each permit application shall disclose if it is within a Municipal Park and Residential Areas as described above.

2. **Historic District and Design Districts.** In accordance with Chapter 284, Sec. 284.105, a Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

2.1. As a condition for approval of Network Nodes or Node Support Poles in Design Districts with Decorative Poles or in a Historic District, the City shall require reasonable design or Concealment measures for the Network Nodes or Node Support Poles. Therefore, any request for installations in a Design District with Decorative Poles or in a Historic District, must be accompanied with proposed Concealment measures in the permit applications.

2.2. The City request that a Network Provider explore the feasibility of using Camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in Design Districts or in an Historic District.

2.3. Network Provider shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.

2.4. Each permit application shall disclose if it is within a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

3. **Historic Landmarks.** A Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government (see, for example, and not limited to §442.001(3) of the Texas Government Code, and 16 U.S.C. §470), as of the date of the submission of the permit. It is recommended that each permit application disclose if it is with 300 feet of such a structure.
4. **Compliance with Undergrounding Requirements.** In accordance with Chapter 284, Sec. 284.107, a Network Provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

4.1 Areas may be designated from time to time by the City as Underground Requirement Areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

4.2 Each permit application shall disclose if it is within an area that has undergrounding requirements.

**B. Least preferable locations.**

1. **Residential Areas and Parks.** A Network Provider is discouraged from installing a Network Node on an existing pole in a public right-of-way without written consent from the City Council if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

   1.1 In accordance with Chapter 284, Sec. 284.104 (b) a Network Provider installing a Network Node or a Node Support Pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

2. **Historic Districts and Design Districts.** A Network Provider is discouraged from installing a Network Node or a Node Support Pole in the public right-of-way in any area designated by the City as a Design Districts or in an area of the City zoned or otherwise designated as a Historic District unless such a Network Node or a new Node Support Pole is camouflaged.

**C. Most preferable locations**

1. **Industrial areas** if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

2. **Highway Rights-of-Way** areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

3. **Retail and Commercial areas** if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

**D. Designated Areas.**

1. The City Council may designate an area as a Historic District or a Design District under Chapter 284.105 at any time.

2. Currently designated **Historic Districts** are:
(a) Historic District Number 1 is the area referred to as Belvin Street Historic District.
(b) Historic District Number 2 is the area referred to as the Downtown Historic District.
(c) Historic District Number 3 is the area referred to as the San Antonio Street Historic District.
(d) Historic District Number 4 is the area referred to as the Lindsey-Rogers Historic District.
(e) Historic District Number 5 is the area referred to as the Burleson Historic District.
(f) Historic District Number 6 is the area referred to as the Dunbar Historic District.
(g) Historic District Number 7 is the area referred to as the Hopkins Street Historic District.

3. Currently designated Design District areas are:

(a) Design District Number 1 is the area referred to as the Central Business Area.
(b) Design District Number 2 are the areas zoned T5 and T5-D.

4. The failure to designate an area in this Chapter shall not mean that such an area is not within a defined district, if so designated by the City Council. Future areas may be designated as one of these Districts at any time. Such a designation does not require a zoning case.

E. Exceptions

The City by its discretionary consent and agreement may grant exception to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Chapter 284, Sec. 284.109 and Sec. 284.110.

F. Order of Preference regarding Network Node attachment to existing facilities and New Node Support Poles.

1. Existing telephone between existing utility poles. Micro Network Nodes shall only be lashed on existing telephone between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.
2. **Existing Utility Service (secondary) Poles** (electric poles or telephones poles), shall be the preferred support facility for Network Nodes and related ground equipment. Installation cannot hinder or impede the ability to ascend pole for repair or maintenance work on existing facilities.

3. **Municipal Service Poles:**
   a. **Non-decorative street lights** with a height of more than 20 feet.
   b. **Traffic signal structures** when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).
   c. **Street signage** shall be a low priority use for attachment of a Network Node.
   d. **Other municipal primary pole use** is discouraged.

4. **New node support poles** shall be the least preferred type of allowed facility for attachment of Network Nodes.

5. **Ground Equipment.** Ground equipment should be minimal and the least intrusive.

**SECTION 4. GUIDELINES ON PLACEMENT.**

**A. Generally.**

In accordance with Chapter 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

1. obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
2. obstruct the legal use of a public right-of-way by other utility providers;
3. violate nondiscriminatory applicable codes;
4. violate or conflict with the municipality’s publicly disclosed public right-of-way management ordinance or this Design Manual.
5. violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).
6. obstruct or hinder the ability to ascend or do maintenance work on the structure.
7. violate the National Electrical Safety Code provision prohibiting placement within ten feet of energized conductors on existing utility service poles.

**B. General Requirements and Information:**

1. **Size Limits.** Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro
Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.3

2. State and Federal Rights-of-way permit. If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

3. Confirmation of non-interference with City Safety Communication or SCADA Networks.

   a. The Network Provider needs to provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, SCADA system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304.

   b. It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider’s proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be allowed on City’s public safety radio infrastructure.

4. Improperly Located Network Node facilities, Node Support Poles and related ground equipment:

   a. Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the City Manager and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Network Provider shall promptly remove the Network Node facilities, Node Support Poles or ground equipment.

   b. Notice to Remove unauthorized facilities and relocate and penalty: After 30 days’ notice to remove of Network Node facilities, Node Support Poles or ground equipment that is located in the incorrect permitted location, if not relocated the Network Provider shall be subject to a penalty of $XXXX per day penalty until the Network Node facilities, Node Support Poles or ground equipment is relocated to the correct area within the permitted Location, regardless of whether or not the Network Provider’s contractor, subcontractor, or vendor installed the Network Node facilities, Node Support Poles or ground equipment in strict conformity with the City Rights-of-way management ord., and other applicable ordinances concerning improperly located facilities in the rights-of-way.

B. Underground Requirement Areas.

1. In accordance with Chapter 284.107, a Network Provider shall, in relation to installation for which the City approved a permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions,
that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

2. If a location is designated by the City to transits to be an Underground Requirement Area, then a Network Provider’s permit for the location of the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location will be revoked 90 days after the designation, with removal of said the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location within 90 days of such designation, or as otherwise reasonably allowed by the City for the transition of other overhead facilities.

3. Before commencing underground installation, 811 Tess must be called so that the area can be flagged for underground utilities.

C. Network Node facilities placement:

1. Right-of-Way: Network Node facilities, Node Support Poles and related ground equipment shall be placed, as much as possible, within two feet of the outer edge of the Right-of-Way line to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way.

2. Height above ground. Network Node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with Chapter 284, Sec. 284.108, and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

3. Protrusions. In accordance with Chapter 284, Sec. 284.003 (a) (1) (C), Sec. 284.003 (a) (2) (C) and Sec. 284.003 (a) (3) (B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

4. Limit on number of Network Nodes per Site. There shall be no more than one Network Node on any one Pole.


1. New Node Support Poles Spacing. New node support poles shall be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

2. Height of Node Support Poles or modified Utility Pole. In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

   (1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or

   (2) 55 feet above ground level.

E. Ground Equipment.

1. Ground Equipment near street corners and intersections: Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284.102 (1), to
minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum line of sight required to add to safe travel of vehicular and pedestrian traffic and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.

2. *Ground Equipment near Municipal Parks.* For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless approved by the City Manager and Parks Director in writing.

3. *Minimize Ground equipment density:*

   In accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City’s designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more.

4. *Water, Sewer and Storm Drainage Lines:*

   Special precautions must be taken where underground fiber optic cable is installed in public street right-of-ways commonly used for utility corridors.

   a. Underground utilities and service connections must be identified prior to excavation. “Dig Alert,” “One Call,” or similar underground utility contractor must be contacted to identify the locations of subsurface utilities.

   b. If temporary disruption of service is required, the installation contractor must notify the City, the service provider, and customers at least 24 hours in advance. No service on such lines may be disrupted until prior approval from the City and the service provider.

   c. At locations where the fiber optic cable will cross other subsurface utilities or structures, the cable must be installed to provide a minimum of 12 inches of vertical clearance between it and the other subsurface utilities or structures, while still maintaining the other applicable minimum depth requirement. To maintain the minimum depth requirement, the cable must be installed under the existing utility. If the minimum 12-inch clearance cannot be obtained between the proposed cable facility and the existing utility, the fiber optic cable must be encased in steel pipe of avoid future damage.

   d. *Existing Water Lines:* No communication lines shall be placed on top of a water line but may be placed to the side of a water line at least 4 feet from the center line of the water line. When crossing a water line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a water line.

   e. *Existing Sewer Lines:* No communication lines shall be placed on top of a sewer line but may be placed to the side of a sewer line at least 4 feet from the center line of the sewer line. When crossing a sewer line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a sewer line.
f. Existing Storm Drainage Lines: No communication lines shall be placed on top of a storm drainage line but may be placed to the side of a storm drainage line at least 4 feet from the center line of the storm drainage line. When crossing a storm drainage line, a 12-inch vertical or horizontal clearance must be maintained. Poles must be at least 3 feet from a storm drainage line.

5. Blocking streets, roads, alleys or lanes:

Texas Department of Transportation (TxDOT) standards must be followed for work zone areas that will block streets, roads, alleys or lanes. A traffic plan must be submitted to the City prior to construction.

F. Municipal Service Poles:

1. In accordance with Agreement: Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).

2. Required industry standard pole load analysis: Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the municipality with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284.108. All installations must comply with the National Electrical Safety Code provision prohibiting placement within ten feet of energized conductors on existing utility service poles.

3. Height of attachments: All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Chapter 284, Sec. 285.108 (a) (1) - (2) and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

4. Installations on Traffic Signals: Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b). Installation of Network Node facilities on any traffic signal structures shall:
   i. Be encased in a separate conduit than the traffic light electronics;
   ii. Have a separate electric power connection than the traffic signal structure; and
   iii. Have a separate access point than the traffic signal structure; and

5. Installations on Street signage: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:
   i. Be encased in a separate conduit than any City signage electronics;
ii. Have a separate electric power connection than the signage structure; and,

iii. Have a separate access point than the signage structure.

6. **Restoration of City facilities and private property**: The Network Provider shall be responsible for repairing any damage to any street, street right-of-way, ditch or any structure to its original condition immediately upon completing the installation. Any change to the slope of the land must be remedied, and there must be replacement of top soil and grass to its original condition.

**SECTION 5. GENERAL AESTHETIC REQUIREMENTS**

A. **Concealment.**

1. Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284.105.

2. It is also the City’s preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

3. The Network Node facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

4. The Network Node facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible, except to the extent not consistent with Chapter 284.

B. **New Node Support Pole Spacing.**

New node support poles shall be at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

C. **Minimize Ground Equipment Concentration.**

In order to minimize negative visual impact to the surrounding area, and in accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City’s designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more to minimize effect on property values and aesthetics on the area.
D. Allowed Colors.

Colors in Historic Districts and Design Districts must be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes or policies, except to the extent not consistent with Chapter 284.

Colors in Historic Districts and Design Districts must be approved by the City Manager from a palette of approved colors. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous. Colors in areas other than in Historic Districts and Design Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

SECTION 6. ELECTRICAL SUPPLY

A. Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.

B. Network Provider shall not allow or install generators or back-up generators in the Right-of-Way in accordance with Chapter 284, Sec. 284.002 (12) (B) (1).

SECTION 7. INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS.

1. Insurance, bonding and security deposits shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

2. Indemnity shall be in accordance with Chapter 284, Sec. 284.302, as provided for in Chapter 283, Sec. 283.057 (a) and (b) of the Texas Loc. Gov’t Code.

SECTION 8. REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, REPLACEMENT, MAINTENANCE AND REPAIR

A. REMOVAL OR RELOCATION BY NETWORK PROVIDER.

1. Removal and relocation by the Network provider of its Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.
2. If the Network Provider removes or relocates a Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, it shall notify the City Manager in writing not less than 10 business days prior to removal or relocation. Network Provider shall obtain all Permits required for relocation or removal of its Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment prior to relocation or removal.

3. The City shall not issue any refunds for any amounts paid by Network Provider for Micro Network Node, Network Node facilities, Node Support Poles or related ground equipment that have been removed.

B. REMOVAL OR RELOCATION REQUIRED FOR CITY PROJECT.

1. Removal and Relocation of Network Provider’s Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof required for a City project shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284, Sec. 284.107, except as provided in existing state and federal law.

1. In accordance with Chapter 284, Sec. 284.107, except as provided in existing state and federal law, a Network Provider shall relocate or adjust Micro Network Node, Network Node, Node Support Pole and related ground equipment in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way.

2. Network Provider understands and acknowledges that the City may require Network Provider to remove or relocate its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or any portion thereof from the Right-of-Way for City construction projects as allowed by state and federal law, including the common-law.

3. Network Provider shall, at the City Manager’s direction, remove or relocate the same at Network Provider’s sole cost and expense, except as otherwise provided in existing state and federal law, whenever the City Manager reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project of a street or public rights-of-way to enhance the traveling public’s use for travel and transportation.

4. If Network Provider fails to remove or relocate the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof as requested by the City Manager within 90 days of Network Provider’s receipt of the request, then the City shall be entitled to remove the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof at Network Provider’s sole cost and expense, without further notice to Network Provider.

5. Network Provider shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof.

C. REMOVAL REQUIRED BY CITY FOR SAFETY AND IMMINENT DANGER REASONS.
1. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider’s sole cost and expense in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

3. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the City Manager if the City Manager reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law. If the City Manager reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider’s sole cost and expense.

4. The City Manager shall provide 90 days written notice to the Network Provider before removing a Micro Network Node, Network Node, Node Support Pole and related ground equipment under this Section, unless there is imminent danger to the public health, safety, and welfare.

5. Network Provider shall reimburse City for the City’s actual cost of removal of Micro Network Node, Network Node, Node Support Pole and related ground equipment within 30 days of receiving the invoice from the City.

SECTION 9. INSTALLATION AND INSPECTIONS

A. INSTALLATION.

1. Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and
workmanlike manner in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

2. Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner and in accordance with the requirements promulgated by the City Manager, as such may be amended from time to time. Network Provider’s work shall be subject to the regulation, control and direction of the City Manager. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, applicable county, the state, and the United States (“Laws”).

B. INSPECTIONS.

1. The City Manager, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way shall be allowed in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

2. The City Manager, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way as the City Manager deems appropriate without notice. If the inspection requires physical contact with the Micro Network Node, Network Node, Node Support Poles or related ground equipment, the City Manager shall provide written notice to the Network Provider within five business days of the planned inspection. Network Provider may have a representative present during such inspection.

SECTION 10. REQUIREMENTS UPON ABANDONMENT OF OBSOLETE MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.

Abandoned or obsolete Micro Network Node, Network Node, Node Support Pole and related ground equipment shall be removed in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall remove Micro Network Node, Network Node, Node Support Pole and related ground equipment when such facilities are Abandoned regardless of whether or not it receives notice from the City. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of the Micro Network Node, Network Node, Node Support Pole and related ground equipment being Abandoned or within 90 days of receipt of written notice from the City. When Network Provider removes, or Abandons permanent structures in the Right-of-Way, the Network Provider shall notify the City Manager and City Manager in writing of such removal or Abandonment and shall file with the City Manager and City Manager the location and description of each Micro Network Node, Network Node, Node Support Pole and related
ground equipment removed or abandoned. The City Manager may require the Network Provider to complete additional remedial measures necessary for public safety and the integrity of the Right-of-Way.

SECTION 11. GENERAL PROVISIONS.

1. As Built Maps and Records. Network Provider’s as built maps and records shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

Network Provider shall maintain accurate maps and other appropriate records of its Network Node facilities, Node Support Poles and related ground equipment as they are actually constructed in the Rights-of-Way, including, upon request, the use of Auto CAD/GIS digital format. Network Provider will provide additional maps to the City upon request.

2. Courtesy and Proper Performance. Courtesy and Proper Performance of Network provider’s personnel, and contractors shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall make citizen satisfaction a priority in using the Right-of-Way. Network Provider shall train its employees to be customer service-oriented and to positively and politely interact with citizens when dealing with issues pertaining to its Micro Network Node, Network Node, Node Support Pole and related ground equipment in the Right-of-Way. Network Provider’s employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of interaction with the public. If, in the opinion of the City Manager or designee, Network Provider is not interacting in a positive and polite manner with citizens, he or she shall request Network Provider to take all remedial steps to conform to these standards.

3. DRUG POLICY. Drug policy of Network provider’s personnel, and contractors in the rights-of-way shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Network Provider’s employees, contractors, subcontractors, sub-Network Provider’s, or vendors while on City rights-of-way is prohibited.

4. ALLOCATION OF FUNDS FOR REMOVAL AND STORAGE. The City has appropriated no funds to pay for the cost of any removal or storage of Micro Network Node, Network Node, Node Support Pole and related ground equipment, as authorized under this Article.

5. OWNERSHIP. Ownership of Network Node and related equipment shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

No part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment erected or placed on the Right-of-Way by Network Provider will become, or be considered by the City as being affixed to or a part of, the Right-of-Way. All portions of the
Micro Network Node, Network Node, Node Support Pole and related ground equipment constructed, modified, erected, or placed by Network Provider on the Right-of-Way will be and remain the property of Network Provider and may be removed by Network Provider at any time, provided the Network Provider shall notify the City Manager prior to any work in the Right-of-Way.

6. **Tree Maintenance.** Tree maintenance shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

   Network Provider, its contractors, and agents shall obtain written permission from the City Manager before trimming trees hanging over its Micro Network Node, Network Node, or Node Support Pole, to prevent branches of such trees from contacting attached Micro Network Node, Network Node, or Node Support Pole. When directed by the City Manager, Network Provider shall trim under the supervision and direction of the Parks Director. The City shall not be liable for any damages, injuries, or claims arising from Network Provider’s actions under this section.

7. **Signage.** Signage shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

   Network Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the Network Node facility that is visible to the public. Signage required under this section shall not exceed 4” x 6”, unless otherwise required by law (e.g. RF ground notification signs) or the City Manager.

   Except as required by law or by the Utility Pole owner, Network Provider shall not post any other signage or advertising on the Micro Network Node, Network Node, Node Support Pole, Service pole or Utility Pole.

8. **Graffiti Abatement.** Graffiti abatement shall be in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, codes and policies, except to the extent not consistent with Chapter 284.

   As soon as practical, but not later than fourteen (14) calendar days from the date Network Provider receives notice thereof, Network Provider shall remove all graffiti on any of its Micro Network Node, Network Node, Node Support Pole, and related ground equipment located in the Right of Way. The foregoing shall not relieve the Network Provider from complying with any City graffiti or visual blight ordinance or regulation.

9. **Restoration.**

   Network Provider shall restore and repair of the rights-of-way from any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider’s removal or relocation activities (or any other of Network Provider’s activities hereunder) in strict accordance with the City’s rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

   Network Provider shall repair any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider’s removal or relocation activities (or any other of Network Provider’s activities hereunder) within
10 calendar days following the date of such removal or relocation, at Network Provider’s sole
cost and expense, including restoration of the Right-of-Way and such property to substantially
the same condition as it was immediately before the date Network Provider was granted a Permit
for the applicable Location or did the work at such Location (even if Network Provider did not
first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other
vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable
approval of the City Manager.

10. Network provider’s responsibility.

Network Provider shall be responsible and liable for the acts and omissions of Network
Provider’s employees, temporary employees, officers, directors, consultants, agents, Affiliates,
subsidiaries, sub-Network Provider’s and subcontractors in connection with the installations of
any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as
if such acts or omissions were Network Provider’s acts or omissions in strict accordance with the
City’s rights-of-way management ordinance, and other applicable ordinances, except to the
extent not consistent with Chapter 284.

Network Provider shall be responsible and liable for the acts and omissions of Network
Provider’s employees, temporary employees, officers, directors, consultants, agents, Affiliates,
subsidiaries, sub-Network Provider’s and subcontractors in connection with the installations of
any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as
if such acts or omissions were Network Provider’s acts or omissions.

SECTION 12-19 RESERVED

SECTION 20. DESIGN MANUAL - UPDATES

Placement or Modification of Micro Network Node, Network Node, Node Support Pole
and related ground equipment shall comply with the City’s Design Manual at the time the Permit
for installation or Modification is approved and as amended from time to time.

1 Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS. (a) Subject to this
chapter and applicable federal and state law, a municipality may continue to exercise zoning,
land use, planning, and permitting authority in the municipality's boundaries, including with
respect to utility poles.

(b) A municipality may exercise that authority to impose police-power-based regulations
for the management of the public right-of-way that apply to all persons subject to the municipality.

(c) A municipality may impose police-power-based regulations in the management of the
activities of network providers in the public right-of-way only to the extent that the regulations are
reasonably necessary to protect the health, safety, and welfare of the public.

2 The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this
Design Manual.

Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives
electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:
   (A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by
       a recognized national code organization; and
   (B) local amendments to those codes to the extent not inconsistent with this
       chapter.

(3) "Collocate" and "collocation" mean the installation, mounting, maintenance,
    modification, operation, or replacement of network nodes in a public right-of-way on or adjacent
    to a pole.

(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic
    purposes and on which no appurtenances or attachments, other than specially designed
    informational or directional signage or temporary holiday or special event attachments, have
    been placed or are permitted to be placed according to nondiscriminatory municipal codes.

(5) "Design district" means an area that is zoned, or otherwise designated by municipal
    code, and for which the city maintains and enforces unique design and aesthetic standards on a
    uniform and nondiscriminatory basis.

(6) "Historic district" means an area that is zoned or otherwise designated as a historic
    district under municipal, state, or federal law.

(7) "Law" means common law or a federal, state, or local law, statute, code, rule,
    regulation, order, or ordinance.

(8) "Macro tower" means a guyed or self-supported pole or monopole greater than the
    height parameters prescribed by Section 284.103 and that supports or is capable of supporting
    antennas.

(9) "Micro network node" means a network node that is not larger in dimension than 24
    inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if
    any, not longer than 11 inches.

(10) "Municipally owned utility pole" means a utility pole owned or operated by a
    municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public
    right-of-way.

(11) "Municipal park" means an area that is zoned or otherwise designated by municipal
    code as a public park for the purpose of recreational activity.

(12) "Network node" means equipment at a fixed location that enables wireless
    communications between user equipment and a communications network. The term:

    (A) includes:
        (i) equipment associated with wireless communications;
        (ii) a radio transceiver, an antenna, a battery-only backup power supply,
             and comparable equipment, regardless of technological configuration; and
        (iii) coaxial or fiber-optic cable that is immediately adjacent to and
             directly associated with a particular collocation; and
    (B) does not include:
        (i) an electric generator;
        (ii) a pole; or
        (iii) a macro tower.

(13) "Network provider" means:
    (A) a wireless service provider; or
    (B) a person that does not provide wireless services and that is not an electric
utility but builds or installs on behalf of a wireless service provider:

(i) network nodes; or
(ii) node support poles or any other structure that supports or is capable of supporting a network node.

(14) "Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.

(15) "Permit" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

(16) "Pole" means a service pole, municipally owned utility pole, node support pole, or utility pole.

(17) "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

(18) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:
   (A) a private easement; or
   (B) the airwaves above a public right-of-way with regard to wireless telecommunications.

(19) "Public right-of-way management ordinance" means an ordinance that complies with Subchapter C.

(20) "Public right-of-way rate" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.

(21) "Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:
   (A) a pole that supports traffic control functions;
   (B) a structure for signage;
   (C) a pole that supports lighting, other than a decorative pole; and
   (D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

(22) "Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

(23) "Utility pole" means a pole that provides:
   (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
   (B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

(24) "Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(25) "Wireless service provider" means a person that provides wireless service to the public.
Sec. 284.002. DEFINITIONS (8) “Micro network node” means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:

1. each antenna that does not have exposed elements and is attached to an existing structure or pole:
   (A) must be located inside an enclosure of not more than six cubic feet in volume;
   (B) may not exceed a height of three feet above the existing structure or pole; and
   (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

2. if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:
   (A) must fit within an imaginary enclosure of not more than six cubic feet;
   (B) may not exceed a height of three feet above the existing structure or pole; and
   (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

3. the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:
   (A) be more than 28 cubic feet in volume; or
   (B) protrude from the outer circumference of the existing structure or a node support pole by more than two feet;

4. ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and

5. pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

1. electric meters;
2. concealment elements;
3. telecommunications demarcation boxes;
4. grounding equipment;
5. power transfer switches;
6. cut-off switches; and
7. vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.
AGENDA CAPTION:
Consider approval of Ordinance 2018-12, on the first of two readings, amending Chapter 14, Buildings and Building Regulations, of the City Code to implement recent legislation prohibiting the City from collecting fees from members of certain trades before they are authorized to practice their trades in the City; providing for an effective date.

Meeting date: May 1, 2018

Department: Planning and Development Services

Amount & Source of Funding
Funds Required: n/a
Account Number: n/a
Funds Available: n/a
Account Name: n/a

Fiscal Note:
Prior Council Action: n/a

City Council Strategic Initiative: n/a

Comprehensive Plan Element (s):
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☒ Not Applicable
Background Information:
The State of Texas passed House Bill No. 3329 and it took effect September 1, 2017. This bill states that a municipality may not collect a permit fee, registration fee, administrative fee, or any other fee from an electrician who holds a license for work performed in the municipality. It then goes on to state that this does not prohibit a municipality from collecting a building permit fee. TML and BOAT (Building Official of Texas) have issued a recommendation and we are recommending that we follow that approach after speaking with Legal. That article is attached for reference. There are 4 sections of Chapter 14 that have been revised to reflect these changes.

Council Committee, Board/Commission Action:
n/a

Alternatives:
n/a

Recommendation:
Staff recommends approval of the ordinance changes as submitted with an effective date of May 15, 2018.
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, OF THE SAN MARCOS CITY CODE TO IMPLEMENT RECENT LEGISLATION PROHIBITING THE CITY FROM COLLECTING FEES FROM MEMBERS OF CERTAIN TRADES BEFORE THEY ARE AUTHORIZED TO PRACTICE THEIR TRADES IN THE CITY; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 14, Buildings and Building Regulations, of the San Marcos City Code is hereby amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.

SECTION 2. Section 14.077 (a) of the San Marcos City Code is amended as follows:

Sec. 14.077. Permits; licensing.

(a) A person applying for a Building (Mechanical) permit shall be:

(1) A licensed air conditioning and refrigerator contractor under state law, or

(2) Exempt under state law from the licensing requirement.

(b) A state licensed air conditioning and refrigeration contractor shall register with the City once a year and show proof of the state license and insurance before any work is performed within the City.

(c) If a building owner is claiming an exemption under state law because he is planning to do the work him or herself, then the owner shall provide an affidavit to the building official stating that he owns and occupies the building as his homestead.

SECTION 3. Section 14.103 (a) of the San Marcos City Code is amended as follows:

Sec. 14.103. Permits; licensing.
(a) A person applying for a Building (Plumbing) permit shall be:

(1) A licensed master plumber under state law, or

(2) Exempt from the state licensing law.

(b) A state licensed master plumber shall register with the city once a year and show proof of the license and insurance before any work is performed within the city or on pipes connected to the city's water or wastewater service; or

(c) If a building owner is claiming an exemption under state law because he is planning to do the work him or herself, then the owner shall provide an affidavit to the building official stating that he owns and presently occupies the building as his homestead.

SECTION 4. Section 14.370 (a) of the San Marcos City Code is amended as follows:

Sec. 14.370. Permits; licensing.

(a) A person applying for an Building (Electrical) permit shall be:

(1) A licensed electrical contractor under state law; or

(2) Exempt under state law from the licensing requirement.

(b) A state licensed electrical contractor shall register with the City once a year and show proof of the state license and insurance before any work is performed within the City.

(c) If a building owner is claiming an exemption under state law because he is planning to do the work him or herself, then the owner shall provide an affidavit to the building official stating that he owns and occupies the building as his homestead.

SECTION 5. Section 14.372 (a) of the San Marcos City Code is amended as follows:

Sec. 14.372. License required; exception.

(a) It is unlawful for any person to perform construction work subject to this article unless the person is licensed as a contractor or is
exempt under one of the following:

(1) A maintenance person may perform maintenance work only upon property owned by the person's employer. A maintenance person who performs work upon the property of more than one property owner is deemed to be performing work for the general public and shall be licensed as a city residential or general contractor.

(2) A property owner may perform construction work with the owner's own hands or use other persons to perform construction work in/on an existing residence owned and occupied by the owner as his homestead. Such other persons performing work for the property owner shall, however, be subject to applicable licensing requirements under state law. All work is subject to permit, inspection and approval in accordance with this chapter.

(3) An approved authorized single representative of a political subdivision. Each subdivision is authorized to submit one person to serve as general representative for projects under $8,000.00 for purposes of permitting. This exception does not authorize work outside the political subdivision unless the person holds a general contractors license under this section.

(4) A specialist contractor shall be required to register as a Specialist Contractor and may perform work for the general public within the specifications and limitations of the registration.

(5) A person licensed by the State of Texas as a trade contractor, including the mechanical, plumbing or electrical trades.

SECTION 6. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this Ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 7. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this Ordinance are repealed.

SECTION 8. This Ordinance shall be effective upon its adoption on second reading.
PASSED AND APPROVED on first reading on May 1, 2018.

PASSED, APPROVED, AND ADOPTED on second reading on May 15, 2018.

John Thomaides
Mayor

Attest:  Approved:

Jamie Lee Case  Michael J. Cosentino
City Clerk  City Attorney
Post-Session Update: Electrician Registration

House Bill 3329, passed during the 2017 regular legislative session and effective on September 1, 2017, adds new Subsection (f) to Section 1305.201, Occupations Code, which provides as follows:

(f) A municipality or region may not collect a permit fee, registration fee, administrative fee, or any other fee from an electrician who holds a license issued under this chapter for work performed in the municipality or region. This subsection does not prohibit a municipality or region from collecting a building permit fee.

Some city officials were concerned that House Bill 3329 prohibits a city from requiring an electrician to pay for a building permit before doing electrical work in the city. The bill doesn’t do that. To understand why, one must look to the rules of statutory construction. In construing a statute, a court’s primary objective is to give effect to the legislature’s intent as gleaned from the text. The Texas Supreme Court recently explained that in divining that intent:

[W]e further “presume the Legislature chose statutory language deliberately and purposefully.” We endeavor to interpret each word, phrase, and clause in a manner that gives meaning to them all. We accordingly read statutes as a whole so as to render no part inconsistent, superfluous, or devoid of meaning.

Moreover, the rules of statutory construction demand that when general words follow specific and particularized enumerations of powers, the general words are treated as limited and applied only to the same kind or class of powers as those expressly mentioned. This rule ensures that terms are not construed more broadly than the legislature intended. In addition, the meaning of particular words in a statute may be ascertained by reference to other words associated with them in the same statute.

Using these canons of construction here, we construe the general prohibition in 1305.201(f) (“A municipality or region may not collect a permit fee, registration fee, administrative fee, or any other fee from an electrician who holds a license issued under this chapter for work performed in the municipality or region”) in light of the specific fee authorization that remains in Section 1305.201: Subsection (f) expressly authorizes a city to continue to collect a building permit fee.

In other words, whatever fees the general prohibition may encompass, it does not include a building permit fee. To provide some guidance in that endeavor, the Building Officials of Texas (BOAT) has issued a recommended approach for permitting and registration under the bill, with the caveat that each city consult with legal counsel. The idea being that a unified approach is in cities’ best interests. According to BOAT:

**Permit Fees**

The general consensus appears to be that cities can still charge for electrical permits as “building permits” under code. The term “building permit,” as opposed to “electrical permit,” is subject to interpretation by each jurisdiction, but a jurisdiction could change all the construction permit types to “building permits” with nomenclature, for example that could be:

- building permit (new single family residential) or (SFR)
- building permit (electrical) or (E)
- building permit (plumbing) or (P)

By changing the permit title, a city would be in conformance with subsection (f) of the bill because it would be issuing a building permit and it is not prohibited from collecting a building permit fee from an electrician.

**Contractor Registration Fees**

A city could register an electrical license free of charge verifying state license law requirements. A building permit fee for electrical work can offset administrative costs of enforcement verification.
How each city defines and charges for a building permit for electrical or other work should be decided by that individual city based on the advice of local legal counsel.

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Back to Legislative Update Index (legis_updates.asp)
AGENDA CAPTION:
Consider approval of Ordinance 2018-13, on the first of two readings, adopting fees to be charged by the City for various city services, including changes to some existing fees and the addition of new fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

Meeting date:  May 1, 2018

Department:  Planning and Development Services

Amount & Source of Funding
Funds Required:  n/a
Account Number:  n/a
Funds Available:  n/a
Account Name:  n/a

Fiscal Note:
Prior Council Action:  n/a

City Council Strategic Initiative:
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element (s):
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☒ Not Applicable
Background Information:
The Planning and Development Services Department regularly reviews their fee schedule to ensure cost of service as well as customer service is maintained. Due to changes from House Bill No. 3329, the Newsrack ordinance 2017-70, the adoption of Code SMTX and the Small Cell 2017-56 ordinance staff recommends the following changes to the fee schedule.

Amendment of fees:
- Child Permit
- Multi-Family Child Permit
- Electrical Permit
- Mechanical Permit
- Plumbing Permit
- Mobile Home Permit
- Mobile Home Trade Permits
- Zoning Change
- Conditional Use Permit / SmartCode Warrant / Alt. Compliance
- Nonprofit Conditional Use / SmartCode Warrant / Alt. Compliance
- Concept Plan / Intensity Zone Regulating Plan
- Protected Trees Fee in Lieu
- Heritage Trees Fee in Lieu

Addition of fees:
- Newsrack Application Fee
- Newsrack Renewal Fee
- Small Cell Application Fee
- Small Cell Pole Application Fee
- Common Signage Plan

Deletion of fees:
- Planned Development District
File #: Ord. 2018-13, Version: 1

- Zoning Change to MF 12, 18, 24

Council Committee, Board/Commission Action:

n/a

Alternatives:

n/a

Recommendation:

Staff recommends approval of the fee schedule as submitted with all fees effective May 15, 2018.
ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ADOPTING FEES TO BE CHARGED BY THE CITY FOR VARIOUS CITY SERVICES, INCLUDING CHANGES TO SOME EXISTING FEES AND THE ADDITION OF NEW FEES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

Pursuant to applicable provisions of State law and City ordinances, the City Council may establish fees to be charged for various City services.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The City Council hereby adopts the fees to be charged for various City services as set forth in Exhibit “A,” attached hereto and made a part hereof for all purposes.

SECTION 2. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed. To the extent the provisions of any ordinance provide for establishment of a fee or fees by resolution of the City Council, such provisions are superseded by this ordinance and the fees as adopted in this ordinance shall govern.

SECTION 5. After its passage, approval and adoption on second reading, this ordinance shall be effective.

PASSED AND APPROVED on first reading on May 1, 2018.

PASSED, APPROVED AND ADOPTED on second reading on May 15, 2018.

John Thomaides
Mayor

Attest: Approved:

Jamie Lee Case Michael J. Cosentino
City Clerk City Attorney
### Building Permit and Inspection Fees

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate of Occupancy (single tenant space)</td>
<td>$29.00</td>
</tr>
<tr>
<td>Certificate of Occupancy (entire building)</td>
<td>$29.00 per unit ($165.00 max)</td>
</tr>
</tbody>
</table>

### Building Permit - New Construction

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family residential</td>
<td>46 cents per square foot</td>
</tr>
<tr>
<td>All other categories of construction including shell building</td>
<td>66 cents per square foot</td>
</tr>
<tr>
<td>Multi-Family Fee</td>
<td>$6.00 per bedroom</td>
</tr>
<tr>
<td>Multi-Family Improvement Credit</td>
<td>$10.00 per bedroom credit (applied to permit)</td>
</tr>
<tr>
<td>Residential Storage Building (pre-built)</td>
<td>$29.00 flat fee</td>
</tr>
<tr>
<td>Residential Storage Building (built on site)</td>
<td>$56.00</td>
</tr>
</tbody>
</table>

### Building Permit - Remodeling, Repair and Alteration Permits

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additions to an existing building</td>
<td>Same as new construction - listed above</td>
</tr>
<tr>
<td>Interior Remodel Residential</td>
<td>1/2 of new residential construction fee for square footage of area being remodeled</td>
</tr>
<tr>
<td>Remodeling within an existing building and Tenant finish out (Commercial)</td>
<td>1/2 of new commercial construction fee for square footage of area being remodeled</td>
</tr>
<tr>
<td>Minimum fee for residential remodeling</td>
<td>$112.00</td>
</tr>
<tr>
<td>Minimum fee for all other remodeling</td>
<td>$223.00</td>
</tr>
</tbody>
</table>

### Trade Building Permit Fees

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Child Permit (Any Building (Mechanical), Building (Electric), or Building (Plumbing) permit pulled under a GC)</td>
<td>$40.00 project registration fee</td>
</tr>
<tr>
<td>Building Child Permit - Multi-Family (Any Building (Mechanical), Building (Electric), or Building (Plumbing) permit pulled under a GC)</td>
<td>$23.00 per unit</td>
</tr>
<tr>
<td>Building (ELECTRICAL):</td>
<td></td>
</tr>
<tr>
<td>Residential: Addition of a single electrical branch circuit/fixture</td>
<td>$56.00</td>
</tr>
<tr>
<td>Residential: Addition of multiple electrical circuits/fixture circuits</td>
<td>$85.00</td>
</tr>
<tr>
<td>Commercial: Addition of a single electrical circuit/fixture</td>
<td>$85.00</td>
</tr>
<tr>
<td>Commercial: Addition of multiple electrical circuits/fixture circuits</td>
<td>$168.00</td>
</tr>
<tr>
<td>Building (MECHANICAL):</td>
<td></td>
</tr>
<tr>
<td>Residential: HVAC Replacement or addition of a single system</td>
<td>$56.00</td>
</tr>
<tr>
<td>Residential: HVAC Replacement or addition of multiple systems</td>
<td>$85.00</td>
</tr>
<tr>
<td>Commercial: HVAC Replacement or addition of a single system</td>
<td>$85.00</td>
</tr>
<tr>
<td>Commercial: HVAC Replacement or addition of multiple systems</td>
<td>$168.00</td>
</tr>
<tr>
<td>Building (PLUMBING):</td>
<td></td>
</tr>
<tr>
<td>Residential: Addition of a single plumbing branch drain/fixture</td>
<td>$56.00</td>
</tr>
<tr>
<td>Residential: Addition of multiple plumbing branch drains/fixtures</td>
<td>$85.00</td>
</tr>
<tr>
<td>Commercial: Addition of a single plumbing branch drain/fixture</td>
<td>$85.00</td>
</tr>
<tr>
<td>Commercial: Addition of multiple plumbing branch drains/fixtures</td>
<td>$168.00</td>
</tr>
</tbody>
</table>

* All multipliers should be rounded to the nearest whole number
<table>
<thead>
<tr>
<th><strong>Miscellaneous Fees</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition Permit - residential</td>
<td>$29.00</td>
</tr>
<tr>
<td>Demolition Permit - all other categories</td>
<td>$300.00</td>
</tr>
<tr>
<td>Demolition Permit - unsafe structure program</td>
<td>$0</td>
</tr>
<tr>
<td>Irrigation System</td>
<td>$18.00 per zone ($50min/$1,000 max)</td>
</tr>
<tr>
<td>Parking Lots (when constructed separately)</td>
<td>5 cents per square foot ($100 minimum)</td>
</tr>
<tr>
<td>Decks, Patios, and Roofs</td>
<td>7 cents per square foot ($25 minimum)</td>
</tr>
<tr>
<td>Swimming Pools</td>
<td>$112.00</td>
</tr>
<tr>
<td>Temporary Structures/Tents - up to 1,000 square feet</td>
<td>$29.00</td>
</tr>
<tr>
<td>Temporary Structures/Tents - over 1,000 square feet</td>
<td>$56.00</td>
</tr>
<tr>
<td>Mobile Homes Building Permit</td>
<td>$56.00</td>
</tr>
<tr>
<td>Irrigation System</td>
<td>$18.00 per zone ($50min/$1,000 max)</td>
</tr>
<tr>
<td>Parking Lots (when constructed separately)</td>
<td>5 cents per square foot ($100 minimum)</td>
</tr>
<tr>
<td>Decks, Patios, and Roofs</td>
<td>7 cents per square foot ($25 minimum)</td>
</tr>
<tr>
<td>Swimming Pools</td>
<td>$112.00</td>
</tr>
<tr>
<td>Temporary Structures/Tents - up to 1,000 square feet</td>
<td>$29.00</td>
</tr>
<tr>
<td>Temporary Structures/Tents - over 1,000 square feet</td>
<td>$56.00</td>
</tr>
<tr>
<td>Mobile Homes Building Permit</td>
<td>$56.00</td>
</tr>
<tr>
<td>Mobile Homes Trade Building Permits - electrical, plumbing, and mechanical in a mobile home park</td>
<td>$18.00 each</td>
</tr>
<tr>
<td>Moving Permits</td>
<td>$56.00</td>
</tr>
<tr>
<td>Foundation Permit</td>
<td>7 cents per square foot ($25 minimum)</td>
</tr>
<tr>
<td>Reinspection Fee (2nd and subsequent inspections)</td>
<td>Residential $55.00</td>
</tr>
<tr>
<td>Work begun without a permit</td>
<td>Double the normal fee ($200 minimum)</td>
</tr>
<tr>
<td>Application Deposit - non-refundable, paid up front and applied to permit balance</td>
<td>50% of permit fee - not to exceed $2,000</td>
</tr>
<tr>
<td>After Hours Inspection Fee</td>
<td>$100.00 per hr. (2 Hr minimum)</td>
</tr>
<tr>
<td>My Permit Now Technology Fee (applied to all permits)</td>
<td>$11.00</td>
</tr>
<tr>
<td>Resubmittal Fee (All Permit Types)</td>
<td>$280.00 each resubmittal after the second</td>
</tr>
<tr>
<td>Change of General Contractor for Approved Permit</td>
<td>Residential $25</td>
</tr>
<tr>
<td>Change of Trade Contractor for Approved Permit</td>
<td>Residential $25</td>
</tr>
<tr>
<td>Parklets, Sidewalk Café and Public Rights-of-Way Application Fee</td>
<td>$200.00</td>
</tr>
<tr>
<td>Parklet Annual Fee</td>
<td>$100.00</td>
</tr>
<tr>
<td>Sidewalk Café Annual Fee</td>
<td>$50 (&lt; 49 square feet)</td>
</tr>
<tr>
<td>Licensing &amp; Renewal Fees</td>
<td></td>
</tr>
<tr>
<td>General Contractor</td>
<td>$168.00 initial fee</td>
</tr>
<tr>
<td>All other Trade &amp; Misc Licenses required by ordinance</td>
<td>$150 annual renewal fee</td>
</tr>
<tr>
<td>All other Trade &amp; Misc Licenses required by ordinance</td>
<td>$85.00 per year local registration fee</td>
</tr>
</tbody>
</table>

* All multipliers should be rounded to the nearest whole number
<table>
<thead>
<tr>
<th>Service Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Watershed Protection Plan Phase I</td>
<td>$800.00</td>
</tr>
<tr>
<td>Watershed Protection Phase II (with or without Site Prep)</td>
<td>$1,200.00 plus $50.00 /acre ($3,000 max)</td>
</tr>
<tr>
<td>Subdivision Improvements including more than one type of Infrastructure</td>
<td>$2,250.00 plus $50.00 /acre ($4,000 max)</td>
</tr>
<tr>
<td>Individual Transportation or Utility Infrastructure Extensions</td>
<td>$1,117.00 plus $5 per linear ft of each improvement</td>
</tr>
<tr>
<td>Out of City Utility Extension</td>
<td>$750</td>
</tr>
<tr>
<td>Out of City Utility Connection</td>
<td>$0</td>
</tr>
<tr>
<td>Weekend &amp; After Hours Public Improvement Inspection</td>
<td>$100.00/hour, 4 hour minimum</td>
</tr>
<tr>
<td>Site Preparation (requires engineer) (does not include WPP review)</td>
<td>$1,700.00 plus $50.00 / acre</td>
</tr>
<tr>
<td>Small Site Preparation</td>
<td>$300.00</td>
</tr>
<tr>
<td>Permit to install on-site sewage disposal system</td>
<td>$178.00</td>
</tr>
<tr>
<td>Traffic Impact Analysis (TIA)</td>
<td>$750.00</td>
</tr>
<tr>
<td>TIA (Worksheet)</td>
<td>$112.00</td>
</tr>
<tr>
<td>CLOMR or LOMR without approved CLOMR</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>LOMR (with approved CLOMR)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>LOMA</td>
<td>$500.00</td>
</tr>
<tr>
<td>Residential (Type I) Driveway or Sidewalk</td>
<td>$29.00</td>
</tr>
<tr>
<td>Commercial (Type II) Driveway or Sidewalk</td>
<td>$56.00</td>
</tr>
<tr>
<td>ROW Maintenance/ Improvement Permit</td>
<td>5% of project value ($55.00min/$2,200.00 max)</td>
</tr>
<tr>
<td>My Permit Now Technology Fee (applied to all permits)</td>
<td>$11.00</td>
</tr>
<tr>
<td>On-premise signs</td>
<td>$2.50 per square ft ($50 min)</td>
</tr>
<tr>
<td>Off-premise signs / billboards</td>
<td>$280.00</td>
</tr>
<tr>
<td>Common Signage Plan**</td>
<td>$280.00</td>
</tr>
<tr>
<td>Fence permit Fee</td>
<td>$56.00</td>
</tr>
<tr>
<td>Resubmittal Fee (All Permit Types)</td>
<td>$280.00 each resubmittal after the second</td>
</tr>
<tr>
<td>Residential $55.00</td>
<td></td>
</tr>
<tr>
<td>Commercial $250.00</td>
<td></td>
</tr>
<tr>
<td>Multi-Family $300.00</td>
<td></td>
</tr>
<tr>
<td>Additional fee after 2nd Reinspection</td>
<td>$100.00</td>
</tr>
<tr>
<td>Sidewalk Fee-in-Lieu</td>
<td>$6.00 per square ft</td>
</tr>
<tr>
<td>SmartCode Protected Trees Fee in Lieu**</td>
<td>$153.00 per Caliper Inch</td>
</tr>
<tr>
<td>SmartCode Heritage Tree Fee in Lieu**</td>
<td>$305.00 per Caliper inch</td>
</tr>
<tr>
<td>Code SMTX: Water Quality Fee-in-Lieu ($0.34 / square foot)</td>
<td></td>
</tr>
<tr>
<td>Code SMTX: Parking Fee-in-Lieu (reduction from 1.05 to 0.75 / bedroom)</td>
<td></td>
</tr>
<tr>
<td>Code SMTX: Parking Fee-in-Lieu (reduction from 0.75 to 0.50 / bedroom)</td>
<td></td>
</tr>
<tr>
<td>Code SMTX: Parkland Development Fee $400.00 / unit</td>
<td></td>
</tr>
<tr>
<td>Floodplain permit application (Single Family)</td>
<td>$29.00</td>
</tr>
<tr>
<td>Floodplain permit application (Commercial)</td>
<td>$168.00</td>
</tr>
<tr>
<td>Single Family Infill - City Flood Analysis Fee $1,000.00</td>
<td></td>
</tr>
<tr>
<td>Floodplain Development Flood Analysis Review fee $1,500.00 plus $50 / acre</td>
<td></td>
</tr>
</tbody>
</table>

*All fees are subject to change.*
# Zoning Review Fees

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Fee Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Planned Development District (PDD)</strong></td>
<td>$2,000.00 plus $100/acre ($5,000 max)</td>
</tr>
<tr>
<td><strong>Zoning Change to MF 12, 18, 24</strong></td>
<td>$3,275.00 plus $100/acre ($4,000 max)</td>
</tr>
<tr>
<td><strong>Zoning Change (All other categories)</strong></td>
<td>$1,000.00 plus $100/acre ($3,000 max)</td>
</tr>
<tr>
<td><strong>Zoning Variance / Special Exception / Change In Status</strong></td>
<td>$700.00</td>
</tr>
<tr>
<td><strong>Renotification Fee</strong></td>
<td>$85.00</td>
</tr>
<tr>
<td><strong>Residential Compatibility Site Plat</strong></td>
<td>$85.00</td>
</tr>
<tr>
<td><strong>Conditional Use Permit / SmartCode Warrant / Alt. Compliance</strong></td>
<td>$750.00*</td>
</tr>
<tr>
<td><strong>Conditional Use Permit / SmartCode Warrant (Renewal or Amendment)</strong></td>
<td>$400.00*</td>
</tr>
<tr>
<td><strong>Renotification fee</strong></td>
<td>$85.00</td>
</tr>
<tr>
<td><strong>Permit revocation proceeding</strong></td>
<td>$165.00 per permit</td>
</tr>
<tr>
<td><strong>Amendment to Preferred Scenario Map</strong></td>
<td>$1,000.00 plus $100/acre ($3,500 max)</td>
</tr>
<tr>
<td><strong>Amendment to text of Master Plan, Capital Improvements Plan, Transportation Plan</strong></td>
<td>$300.00</td>
</tr>
<tr>
<td><strong>My Permit Now Technology Fee</strong> (applied to all permits)</td>
<td>$11.00</td>
</tr>
<tr>
<td><strong>Application for a License to Encroach</strong></td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Resubmittal Fee (All Permit Types)</strong></td>
<td>$280.00 each resubmittal after the second</td>
</tr>
<tr>
<td><strong>Incentive Agreements (MUD, PID, TIRZ, etc.)</strong></td>
<td>$15,000</td>
</tr>
<tr>
<td><strong>Annexation</strong></td>
<td>$1,117.00</td>
</tr>
<tr>
<td><strong>Development Agreements / Other Agreements (Oversizing, TDR, etc.)</strong></td>
<td>$2,000.00 plus $100/acre ($5,000 max)</td>
</tr>
<tr>
<td><strong>Street or alley abandonment</strong></td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Certificate of Appropriateness</strong></td>
<td>No fee at this time</td>
</tr>
<tr>
<td><strong>Appeal, if residence is located within 400 ft of the subject property</strong></td>
<td>$100.00</td>
</tr>
<tr>
<td><strong>Appeal, all other instances</strong></td>
<td>$600.00</td>
</tr>
<tr>
<td><strong>Amendment to Development Agreement, PDD, Incentive Agreement, etc.</strong></td>
<td>$2,000.00 plus $100/acre ($5,000 max)</td>
</tr>
<tr>
<td><strong>Zoning Verification Letter</strong></td>
<td>$50.00</td>
</tr>
</tbody>
</table>

*All multipliers should be rounded to the nearest whole number.

**Fees/Changes will be effective following the adoption of Code SMTX**
**Subdivision Review Fees**

<table>
<thead>
<tr>
<th>For Plats Located Inside/Outside of the City Limits</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subdivision Minor Plat / Amending Plat</td>
<td>$500.00 plus $100 /acre ($1,000 max)</td>
</tr>
<tr>
<td>Concept Plan / Intensity Zone Regulating Plan**</td>
<td>$1,000.00 plus $50 /acre ($2,500 max)</td>
</tr>
<tr>
<td>Preliminary Plat</td>
<td>$1,000.00 plus $50 /acre ($2,500 max)</td>
</tr>
<tr>
<td>Final Plat</td>
<td>$1,250.00 plus $100 /acre ($2,500 max)</td>
</tr>
<tr>
<td>Replat, not administrative</td>
<td>$1,000.00 plus $50 /acre ($3,000 max)</td>
</tr>
<tr>
<td>Vacation of Previously Recorded Plat</td>
<td>$168.00</td>
</tr>
<tr>
<td>Subdivision Variance Request</td>
<td>$700.00</td>
</tr>
<tr>
<td>Cluster Development Plan</td>
<td></td>
</tr>
<tr>
<td>Other Subdivision Fees</td>
<td></td>
</tr>
<tr>
<td>My Permit Now Technology Fee (applied to all permits)</td>
<td>$11.00</td>
</tr>
<tr>
<td>Park Fee decision</td>
<td>$153.00</td>
</tr>
<tr>
<td>Resubmittal Fee (All Permit Types)</td>
<td>$280.00 each resubmittal after the second</td>
</tr>
</tbody>
</table>

* All multipliers should be rounded to the nearest whole number  
** Fees/Changes will be effective following the adoption of Code SMTX
AGENDA CAPTION:
Consider approval of Ordinance 2018-14, on the first of two readings, amending Section 2.041 of the San Marcos City Code to update the frequency of Regular Meetings per month; including procedural provisions; and declaring an effective date.

Meeting date: May 1, 2018

Department: City Clerk’s Office

Amount & Source of Funding
Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

Fiscal Note:

Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]

☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☒ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Background Information:
On December 19, 2017 the City Council adopted Ordinance 2017-67 on second reading which approved the following:

1. Reduced the number of regular meetings from 24 per year to 22 per year as authorized by the voters in Proposition E of the 2017 Special Charter Election.
2. Changed the day of the first regular meeting in November from the first Monday to the first Wednesday of that month.
3. Changed the day for first regular meeting in October from the first Tuesday to the first Monday of that month to resolve a scheduling conflict with the National Night Out event.

Staff recently realized that the current language requires all regular meetings to be held on the first and third Tuesdays of the month, and does not allow for any other Tuesday (May 29, 2018 for example) to count as a regular meeting. In order to have a meeting held on any other day count as a regular meeting Section 2.041 needs to be amended.

The change being requested is as follows:
“Regular meetings of city council shall be held at 6:00 p.m. on the first and third Tuesdays of the month with the exception of the following: the first regular meeting in November which is held on the first Wednesday of that month, and with the exception of the first regular meeting in October which is held on the first Monday of that month, or any date approved as a regular meeting date by city council at a posted meeting.

Council Committee, Board/Commission Action:
N/A

Alternatives:
Click or tap here to enter text.

Recommendation:
Approve the attached Ordinance to allow for the May 29 meeting to count as a regular meeting.
ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING SECTION 2.041 OF THE SAN MARCOS CITY CODE TO UPDATE THE FREQUENCY OF REGULAR MEETINGS PER MONTH; INCLUDING PROCEDURAL PROVISIONS; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Section 2.041 of the San Marcos City Code is hereby amended to read as follows:

Section 2.041. Time of Meetings.

In accordance with Section 3.09 of the City Charter, the city council shall hold twenty-two regular meetings, at a minimum, each year. Regular meetings of city council shall be held at 6:00 p.m. on the first and third Tuesdays of the month with the exception of the first regular meeting in November which is held on the first Wednesday of that month, and with the exception of the first regular meeting in October which is held on the first Monday of that month, or any date approved as a regular meeting date by city council at a posted meeting.

SECTION 2. If any word, phrase, clause, sentence, or paragraph of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 3. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 4. This ordinance shall become effective upon its adoption on second reading.

CONSIDERED AND APPROVED on first reading on May 1, 2018.

CONSIDERED, APPROVED, AND ADOPTED on second reading on May 15, 2018.

John Thomaides
Mayor
Attest: Jamie Lee Case
City Clerk

Approved: Michael J. Cosentino
City Attorney
AGENDA CAPTION:
Consider approval of Resolution 2018-70R, approving the allocation of five City-owned residential lots to be made available for qualified residents affected by the 2015 floods to construct new homes under the Housing and Urban Development Community Development Block Grant-Disaster Recovery -Reconstruction on City-owned property (“RCOP”) Program; authorizing the City Manager or his designee to act as the official representative of the City in matters related to the RCOP program; and declaring an effective date.

Meeting date: May 1, 2018

Department: Planning and Development Services

Amount & Source of Funding
Funds Required: Click or tap here to enter text.
Account Number: Click or tap here to enter text.
Funds Available: Click or tap here to enter text.
Account Name: Click or tap here to enter text.

Fiscal Note:
Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Workforce Housing and Stormwater
Goal #2 Beautify & Enhance the Quality of Place
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☒ Neighborhoods & Housing - Protected Neighborhoods in order to maintain high quality of life and stable property values
☐ Parks, Public Spaces & Facilities - Choose an item.
Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Choose an item.

Background Information:
The City of San Marcos was awarded $33,794,000 to address the impact of the floods of 2015. Substantial Amendment No. 6 to the Community Development Block Grant - Disaster Recovery Action Plan will expand the Housing Program to include the Reconstruction on City Owned Property Program (RCOP) which provides an opportunity for Applicants that would otherwise not be eligible for the CDBG-DR program to receive benefits in the form of a no cost to Applicant City Owned Residential Lot and a CDBG-DR financed stick built home.

The following city owned lots will be used in the Reconstruction on City Owned Property Program (RCOP) to move residents out of the floodway or floodplain:

607 Georgia Street
330 Ellis Street
227 Roosevelt
811 Alabama
603 Centre Street

Council Committee, Board/Commission Action:
Workforce

Alternatives:
CDBG-DR funds could be utilized to purchase non-city owned lots for the Housing Program.

Recommendation: Staff recommends approval of the resolution.
Click or tap here to enter text.
RESOLUTION NO. 2018- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE ALLOCATION OF FIVE CITY-OWNED RESIDENTIAL LOTS TO BE MADE AVAILABLE FOR QUALIFIED RESIDENTS AFFECTED BY THE 2015 FLOODS TO CONSTRUCT NEW HOMES UNDER THE HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY-RECONSTRUCTION ON CITY-OWNED PROPERTY (“RCOP”) PROGRAM; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ACT AS THE OFFICIAL REPRESENTATIVE OF THE CITY IN MATTERS RELATED TO THE RCOP PROGRAM; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The allocation of the following City-owned residential lots to be made available for qualified residents affected by the 2015 floods to construct new homes under the Housing and Urban Development Community Development Block Grant-Disaster Recovery-Reconstruction on City-Owned Property (“RCOP”) Program is hereby approved:

   a. 607 Georgia Street;
   b. 330 Ellis Street;
   c. 227 Roosevelt Street;
   d. 811 Alabama Street; and
   e. 603 Centre Street.

PART 2. The City Manager or his designee to act as the official representative of the City in matters related to the RCOP Program.

PART 3. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on May 1, 2018.

John Thomaides
Mayor
Attest:

Jamie Lee Case
City Clerk
City Owned Lots and Affordable Housing

Review of City owned property most suitable for Affordable Housing.
607 Georgia Street

- Highlighted property is a legally platted lot.
- Property is zoned SF-4.5
- Portion of the property that is not highlighted to be altered with Victory Gardens CIP Project (intersection alignment).
- This lot is located within the 500 year floodplain
330 Ellis Street

- Legally platted Lot
- Zoned SF-6
- Located within the 500 year flood plain.
- May require 1 foot above grade elevation due to proximity of 100 year floodplain.
227 Roosevelt Street

- Legally platted lot
- Located within the 500 year floodplain
- Will require a variance to the side corner setback (15 ft) requirement due to narrow width of lot (25 ft).
811 Alabama

- Legally platted lot
- Very large lot, over 26,000 square feet.
- Majority of lot within the 100 year floodplain, however over 7,000 feet is located within the 500 year floodplain.
- Zoned Neighborhood Commercial – will require zoning change.

<table>
<thead>
<tr>
<th>Parcel ID</th>
<th>Highest(ft)</th>
<th>Lowest(ft)</th>
<th>Mean (ft)</th>
<th>COP#</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>R47155</td>
<td>9.5</td>
<td>0</td>
<td>2.384</td>
<td>7</td>
<td>None</td>
</tr>
</tbody>
</table>

City Owned Property
0.2PCT Flood Hazard 2017
Floodway 2017
603 Centre Street

- Part of a lot, will be required to plat under current code. CODE SMTX would not require a plat.
- Approximately 6,257 square feet.
- Zoned SF-6
- Under CODE SMTX, zoning categories such as ND-3 would allow this property to be subdivided into 2 lots for an attached house product.
- Is not located within a floodplain.

<table>
<thead>
<tr>
<th>Parcel ID</th>
<th>Highest(ft)</th>
<th>Lowest(ft)</th>
<th>Mean (ft)</th>
<th>COP#</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>R24663</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>29</td>
<td>Not In Floodplain</td>
</tr>
</tbody>
</table>
THE RCOP PROGRAM PLACES RESTRICTIVE COVENANTS ON THE PROPERTY THAT MAY LIMIT THE FUTURE SALE OF THE PROPERTY. THE APPLICANT SHOULD DISCUSS WITH LEGAL COUNSEL PRIOR TO PARTICIPATING IN THE PROGRAM.

The RCOP provides an opportunity for Applicants that would otherwise not be eligible for the CDBG-DR program to receive benefits in the form of a no cost to Applicant City Owned Residential Lot and a CDBG-DR financed stick built home.

To participate in the RCOP Program, the Applicant must surrender all rights in the ineligible property and all improvements thereon or in the case of a Manufactured Housing Unit (MHU) transfer ownership of the MHU to the City for demolition.

Key Terms to Understand

- The Applicant will surrender all rights to existing property
- The Applicant will be required to sign a deferred forgivable loan for a period of 30 years
- The applicant will be required to sign a Land Use Restriction Agreement that generally will:
  - Provide a First Right of Refusal to the City if Owner desires to sell for 30 years
  - Limit the sale of the Property to Low-to-Moderate Income Households for 30 years and get approval of sale by the City
  - Require a payback to the City for any years where a Low-Moderate Income Household does not occupy the home
  - Establishes a mechanism for approving the sale price of the Property
- Require that insurance and taxes remain current on the Property
- Require that the Owner provide proof that they not only own but also occupy the Property

Do not agree to participate in the RCOP Program unless you fully understand the documents you are required to sign
RELOCATION AND RECONSTRUCTION PROGRAM
RECONSTRUCTION ON CITY OWNED PROPERTY (RCOP)

The RCOP CDBG-DR Program encompasses the reconstruction of housing for impacted applicants that are in areas not eligible for rebuild or where the improvements are owned by the applicant but not the land. The City under the CDBG-DR program desires to assist the Applicants with stick built housing on City owned allowable build lots. Applicants eligible for the RCOP program are typically going to be single family homes that currently reside in a floodway that are not eligible for reconstruction at their current location and applicants who own flood impacted manufactured housing units (MHU) on land they do not own (could be land designed for MHU rentals or an MHU placed on land by agreement with the property owner). Other property owners in substantially similar circumstances may be considered for participation in RCOP on a case-by-case basis at the sole discretion of the City.

ELIGIBILITY

In addition to the eligibility criteria and documentation noted in the Threshold Eligibility Determination Step for the other approved Housing Programs the RCOP Program includes the following criteria to be considered for the next step in eligibility for the program:

- The homeowner must be located on property not eligible for rebuild by City or HUD policy
- The property is an MHU that is on land not owned by the Applicant (rental or agreed placement)
- The owner must own the property or MHU without any liens or they must obtain a waiver of liens that allow the City to have priority lien position in the property records upon the transfer of property.

THE INTERVIEW

If on the City of San Marcos CDBG-DR Intake Application in question 6., the Applicant has stated "yes" to "is the address an MHU" and "No" to "do you own the land?" then the Applicant may be eligible for the RCOP Program. Regardless of the type of dwelling if the Applicant has stated "Yes" to "Is the property located in the floodplain?" then the Applicant may be eligible for the RCOP Program if the property is in a floodway or other ineligible build lot. In the event the Applicant stated "Don't know" to the flood plain question, the Program will investigate further to determine if the Applicant is eligible for the RCOP.

- If the Applicant is eligible for the RCOP Program, the CMPC-CW interviewer should ask about liens or mortgages on the property.
- The CMPC-CW interviewer should provide a copy of CBDG-DR Form 0021 to the Applicant that highlights the RCOP Program and ask the Applicant if they are interested in a relocation program to city property that will include a 30 year restrictive covenant limiting the sale of the property under certain conditions.
- If the Applicant says "yes" then the CMPC-CW interviewer should collect the information necessary for the RCOP Program and indicate that the Applicant has been made aware of the conditions on the program before proceeding.
ENVIRONMENTAL REVIEW

The City Lot selected by the Applicant when the eligibility and score for RCOP has been determined will undergo a Tier II review for the lot to be utilized for stick-built construction.

SCORING AND LOT SELECTION

The City has a limited number of residential properties that they have acquired through various means. The City has voluntarily agreed to allow a certain number of these lots to be made eligible for the CDBG DR program in conjunction with a HUD style 100% Homebuyer Assistance Program in the form of the RCOP where the Applicant must be relocated. Once the eligibility of the Applicant for the RCOP Program has determined, the Applicant Score will be used in two ways. The Applicant must first qualify for the program under the overall program scoring process. Once the City has made a determination that the funds are available to serve the applicant in the Program, the Applicant’s score will also be used to determine the City Owned Lot Selection process.

As Applicants eligibility is determined, those with the higher eligibility score will be allowed to make the initial selection between the available lots for the Program. Those applicants with the highest scores will be allowed to select the City Owned lot they most prefer on a first come first served basis. The Applicants will be allowed three (3) days to select a Primary preference lot before the next level score of applicant is allowed to select from the lots. As all similarly scored applicants will be choosing between the lots at the same time, a lot that was available at the initial time of selection may be taken by another applicant with a similar score without notice. Between applicants with similar scores, the lots will be awarded on a first-come-first-served basis as to Primary Preference or if the available lots have been opened to secondary pool after the three day time for decision they will be in a first-come-first-served position. If an applicant would like to select a previously selected Primary Preference lot of another Applicant in the event that the Applicant who selected the lot does not qualify, or chooses not to participate or build on that lot, they may do but only as a Secondary Preference lot. The applicant with the Secondary Preference selection will need to select a Primary Preference lot. An Applicant may have one Primary Preference selected lot and not more than one Secondary Preference lot at any time. There is no limitation to how many Applicants may declare a single lot as a Secondary Preference Lot, but all applicants must select an available lot as a Primary Preference lot to move forward in the Program.

Once an Applicant has been approved and the construction plan signed, all secondary lot selections for that Applicant will be removed as will any secondary lot choices on the lot approved for construction.

In the event of a lot selection that is declared ineligible for building due to a Tier II review, the Applicant will be allowed to select from all remaining non-selected lots.

MAXIMUM BENEFIT FOR THE RCOP

The RCOP Program has three distinct elements that all must be completed above and beyond basic CDBG-DR program eligibility or the Applicant will not be able to move forward in RCOP Program. These are:

- Selection of Lot and TIER II approval of that lot for construction
- Transfer of Ownership of ineligible build lot or MHU to the City
- Demolition of any improvements on ineligible lot or MHU once transferred to the City
For purposes of the RCOP Program the cost of the Tier II review, transfer of Ownership (both City lot to Applicant and Applicant property to city) and the demolition will not be included in the Maximum Award available as determined above.

An Applicant may not participate in the RCOP Program unless the property (Land or MHU) is transferred. In the event of a mortgage is on the underlying property or MHU, it is the responsibility of the Applicant to obtain all necessary forms to allow the City to have the first lien position. The City will allow a mortgage to move to the new property provided the Land Use Restriction Agreement is in the first lien position.

For purposes of existing improvements in illegible properties or MHUs, the city will conduct a Request for Proposals for the demolition of existing stick-built and lot clearance required for the transferred property. The property will then be transferred to the City as public land and used appropriately (open space, wetlands, flood protection, etc.) in perpetuity. At no point will the property be used for redevelopment of housing. For MHUs, the city will seek a Request for Proposals for the removal, destruction and potential salvage of eligible materials of the MHU. In no cases will the MHU continue under its existing registration to be used as housing. The demolition of the stick-built housing on ineligible Property and the MHU must follow all HUD environmental standards including Asbestos and Lead Based Paint standards. The City will consider the cost of the disposal as a demolition program, but not charged against any Maximum Award to Owner, but will be factored into the overall cost of the Housing Program for determining the number of applicants to participate within the RCOP program based on funds available.

**RESTRICTIVE COVENANT AND NOTE REQUIRED**

The City is providing the RCOP Program recognizing that under the existing program rules, some Applicants would not have the ability to participate in the Program and therefore would remain in flood damaged homes—with the potential for future flood damage in future flooding events. The City desires to assist these Applicants to move into decent safe and sanitary housing that will replace their existing damaged housing where possible. The City has established a limited Homebuyer Assistance Program for relocating Applicants where their property is ineligible for rebuild or for Applicants that do not own the property where their Manufactured Housing Units are placed.

This program is subject to the availability of City owned lots being available for redevelopment. To meet the City goals of increasing affordable housing in the community, the City is requiring that the donated lots and the CDBG-DR funded reconstruction remain eligible for Low to Moderate Income Households for at least 30 years. The City is requiring that Applicants utilizing the RCOP program sign a 30 year Promissory Note and agree to and sign a Restrictive Covenant in the form of a Land Use Restriction Agreement (LURA) that will limit the transfer of the property to Low-to-Moderate Income Households for 30 years. The Applicant may remain in the home for 30 years and have the promissory Note extinguished regardless of household income.

Both the deferred forgivable Promissory Note and the LURA must be signed by the Applicant prior to the beginning of construction. The effective date of the LURA will be based on an estimated time of construction based on the home. If the home is completed before the Effective Date, the Effective Date of the LURA will amended to the earlier date. The capitalized terms are defined in the LURA.
Right of First Refusal

The City has an established policy to develop affordable housing within San Marcos. To ensure that the City gets maximum affordability, the City is requiring that they receive a “First Right of Refusal” in the event the Owner wants to sell the City Owned Lot property with improvements constructed with CDBG-DR funds. The Owner must contact the City one hundred and twenty (120) days prior to the anticipated listing date of the Property and inform them of the anticipate sale. The City will have the right to Purchase the Property for Fair Market Value, less the amount remaining on the Promissory Note, so that the Owner will be paid for their “equity” established in the home during the Compliance Period. If the City elects not to purchase the Property, the Owner may list it for sale to a qualified LMI person or persons. The Owner cannot demand the City buy the property.

Key Terms of the LURA and Promissory Note

The **Promissory Note** will be in the form of a Deferred Forgivable Loan over a 30 year period. The Loan will be forgiven at the rate of 3.33% a year until the Loan is extinguished. The Applicant will receive a credit against the amount for each full year they remain in the Property (if absent more than 120 days in any year will count as having abandoned the property), they will be credited with a 3.33% reduction in the Note up to 30 years. If at the end of the 30 year period the Applicant has remained in the home the Loan and the LURA will be released and the home will have no further restrictions. If the Applicant elects to move out of the Property, during the course of the 30 Year LURA, they must first offer the City the Home at Fair Market Value or sell to an LMI Household for an amount that allows the household to acquire the home without exceeding the Home Affordable Housing Amount (not more than 30% of Gross Income going to Housing). The amount remaining on the Note will not need to be repaid to the City if the buyer is an LMI family if the LURA remains in effect. If not, the Applicant will need to repay the City for the full amount remaining on the Note. The Note will feature a cost for the land.

The recapture amount is the actual percentage of the amount of the original appraised value and shall be adjusted annually as set forth in the following table:

<table>
<thead>
<tr>
<th>Date of sale or transfer</th>
<th>Percentage to be Recaptured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than year from date</td>
<td>100%</td>
</tr>
<tr>
<td>More than 1 year but less than 2 years</td>
<td>96.67%</td>
</tr>
<tr>
<td>More than 2 years but less than 3 years</td>
<td>93.34%</td>
</tr>
<tr>
<td>More than 3 years but less than 4 years</td>
<td>90.01%</td>
</tr>
<tr>
<td>More than 4 years but less than 5 years</td>
<td>86.68%</td>
</tr>
<tr>
<td>More than 5 years but less than 6 years</td>
<td>83.35%</td>
</tr>
<tr>
<td>More than 6 years but less than 7 years</td>
<td>80.02%</td>
</tr>
<tr>
<td>More than 7 years but less than 8 years</td>
<td>76.69%</td>
</tr>
<tr>
<td>More than 8 years but less than 9 years</td>
<td>73.36%</td>
</tr>
<tr>
<td>More than 9 years but less than 10 years</td>
<td>70.03%</td>
</tr>
<tr>
<td>More than 10 years but less than 11 years</td>
<td>66.70%</td>
</tr>
<tr>
<td>More than 11 years but less than 12 years</td>
<td>63.37%</td>
</tr>
<tr>
<td>More than 12 years but less than 13 years</td>
<td>60.04%</td>
</tr>
<tr>
<td>More than 13 years but less than 14 years</td>
<td>56.71%</td>
</tr>
<tr>
<td>More than 14 years but less than 15 years</td>
<td>53.38%</td>
</tr>
<tr>
<td>More than 15 years but less than 16 years</td>
<td>50.05%</td>
</tr>
</tbody>
</table>
Qualifying period for forgiveness will be in full year increments. In order to qualify for a year of forgiveness, all 365 (or 366 in leap years) days will determine the year, not a calendar year. For example if the Promissory Note and LURA are signed on June 30, the annual credit will be earned on June 29 the following year. The Applicant will need to meet the Internal Revenue Service definition of being a resident of the home to qualify for forgiveness.

Example: The homeowner seeks to sell the property after occupying it continuously for 15 years. The property owner would contact the City 120 days prior to putting the property up for sale. If the City exercises its option, they will determine a Fair Market Price and buy the property and restart the LURA for a 30 year period with a new LMI household. If the City does not exercise its Right of First Refusal, then the Applicant may list the property for sale with the stipulation that the property must be sold to a LMI household for a price that allows an LMI family to pay for the house without exceeding 30% of the gross income of LMI family of four (or six for a larger home) in the Metropolitan Statistical Area containing San Marcos. If the Applicant is not able to sell the home to an LMI Household, the Applicant can sell the home on the open market, but must repay the City the balance of the Promissory Note—in this case 15 years or 50% of the original balance of the Promissory Note.

Key terms of the LURA

The LURA is a legally binding covenant that runs with the land and will be enforceable for up to 30 years. The LURA will limit the ability to sell the Property and the improvements on the land. The Applicant should be provided an opportunity to discuss the transfer with their own legal counsel if they desire. The City will provide a lot approved for residential construction and will utilize CDBG-DR funds to construct a home for the Applicant. In exchange for the City Owned property and the CDBG-DR construction, the Applicant must surrender all rights to their prior property (land or MHU) and agree to the Promissory Note and the LURA. The LURA is available for review as CDBG-DR-00-25. Key Provisions of the LURA include:

TERM OF DECLARATION

(a) The LURA, even if not filed in the Property Records until a later date, shall become effective with respect to Property on the Effective Date.
(b) Notwithstanding subsection (a) above the terms of this agreement shall be modified as applicable in certain limited circumstances described below in section (2), this Declaration shall terminate:

(1) If the assisted homeowner continues to occupy the home until the term of the note expires, the owner pays nothing and there are no conditions on the disposition of the property. If the property is sold, transferred or vacated by the assisted homeowner for any period that exceeds One-hundred twenty (120) days during the term of the forgivable loan period, the repayment terms of the Note will be enforced. If the assisted homeowner for any reason (other than the cases illustrated in 2. below) ceases to reside in the assisted unit during the City’s CDBG-DR contract period, only LMI persons may reoccupy the unit until the contract is administratively closed by the City or the CDBG-DR contract period expires, whichever is earlier.

(2) Accelerated Forgiveness in Certain Cases: In the event of (a) the death, (b) relocation to a managed care facility, or (c) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the City may, at its sole discretion, forgive any remaining loan balance or exercise the City’s Right of First Refusal.

ENFORCEMENT, ADMINISTRATION AND COMPLIANCE

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of the LURA.

(b) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the LURA is to assure compliance with the Policy for Right of First Refusal and the 30 year Compliance Period.

(c) The Owner agrees the City may, at reasonable times and upon adequate notice at any time during the construction, rehabilitation, or post occupation, enter and inspect the Development to evaluate its physical and financial condition, construction, rehabilitation, operation, management, and maintenance.

(d) The Owner agrees that it will respond to requests for proof of ownership and habitation by the City.

ESTABLISHING THE SALES PRICE OF THE PROPERTY

The LURA anticipates three (3) different pricing models:

City Right of First Refusal Fair Market Price—Will be established based on the value of three recently sold houses within a four block area surrounding the home less the amount of funding remaining for not completing the Compliance Period on the Promissory Note. If not a sufficient number of homes have been sold in an arms-length transaction within the past year, then at the city’s expense, an independent appraiser registered with the State of Texas shall conduct an appraisal on the current value of the home. This option occurs only when the City, in its sole discretion, exercises its Right of First Refusal. The Applicant cannot demand that the City buy the home.
Purchase Price for Sale to LMI Household—Means the best price the Seller can obtain that allows an LMI person(s) to acquire the Property for an amount that will allow the home to remain as Affordable Housing where the payment (not to include taxes of insurance) of any note or mortgage to not exceed 30% of the gross income of an LMI Family of four (4) for two bedrooms or an LMI Household of six (6) based on the San Marcos MSA in the year of the sale.

Market Rate Sale Price—Means the best available price for the home based on an arms-length third party Buyer in Good Faith. Market Rate Price anticipates that the home will no longer be affordable housing and requires a recapture to the City for the balance of the Promissory Note.

REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner must be willing to provide the following representations, covenants and warranties as part of the Land Use Restriction Agreement:

a) The Owner possesses all legal right, power and authority to execute and deliver a Land Use Restriction Agreement as is provided as CDBG-DR Form 0025.

b) The Owner has, at the time of execution and delivery of the Land Use Restriction Agreement, good and indefeasible fee simple title to, or a leasehold interest, free and clear of any lien, charge, or other encumbrance, except those created by any loan documents relating to the Program, or those which are created pursuant to this Declaration for the Transferred Property to be transferred to the City. If a Lien exists it will be extinguished or transferred under program rules before transfer to the City.

c) The Owner agrees to notify the City in writing of any sale, transfer, or exchange of the property, and to provide to the City the name(s) and address(es) of such prospective buyer before the sale is complete for City approval. In the case of a First Right of Refusal allowed to the City, the Owner will notify the city prior to listing. If the Owner fails to notice the City prior to a listing for sale, the Owner shall be responsible to any fees due to a party who has signed a contract to assist with the sale and will not be included in the Fair Market Value price.

d) The Owner represents, warrants, and agrees they will maintain sufficient casualty and hazard insurance on the new CDBG-ER property so that if any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the property to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and to continuously act in accordance with the terms of this Declaration.

e) The Owner will continue to maintain the property in good repair and pay all taxes and assessments due against the Property.

f) For the duration of the Compliance Period if the Property was provided to the Owner as part of the Program, the Owner agrees that the sale of this property is subject to the Right of First Refusal by the City at Fair Market Price. In the event the City does not exercise its First Right of Refusal, during the Compliance Period, the Owner must offer the property for sale to LMI
person(s) at a Purchase Price that allows the Buyer in Good Faith to occupy the property as Affordable Housing. The Owner has no right to demand the City purchase the Property.

g) The Owner will cooperate with the City for annual Compliance Period materials as requested.

h) No secondary financing instruments may be filed against this property without express authorization from the City. In addition, in the event that the City authorizes a secondary financing instrument, this LURA will remain superior to any subsequent instruments.

OWNER MAY OCCUPY HOME UNTIL CONSTRUCTION COMPLETE

The Owner may continue to occupy the original home (ineligible lot improvements or damaged MHU) until the construction is completed. The Owner must maintain insurance on the property during the construction period if they chose to live in the damaged improvements or MHU. The Property will transfer to the City eight (8) days after the Owner is provided with keys to the new Property. The Owner must evacuate and take all belongings from the Property within seven (7) days from the key passing meeting. Any property remaining will be disposed of as part of the demolition. Any bulk items (old appliances, cars on the lot, trash) will be disposed of and billed to the owner for the disposal.

CONSTRUCTION OF PROPERTY

Once the Applicant has been qualified in the RCOP Program and a lot chosen, the construction will follow all the rules of the CDBG-DR program and all processes will be the same as though the home was rebuilt on the owner's land.
THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS/LAND USE RESTRICTION AGREEMENT FOR CITY OF SAN MARCOS DISASTER RECOVERY PROGRAM (this "Declaration"), dated as of DATE OF LURA, is made by and between OWNER ("Owner") and the CITY OF SAN MARCOS ("City"), collectively "Parties," and is given by Owner as a guarantee for terms required under the Policies and Procedures. The Owner acknowledges that the terms of this Land Use Restriction Agreement ("LURA") could potentially impact the sale of the property and may lead to recapture of funds if the terms of the LURA are not met.

SECTION 1 - DEFINITIONS

Unless the context otherwise requires, and in addition to those terms defined in the recitals set forth above, capitalized terms used in this Declaration shall have the following meanings:

**Affordable Housing**—Means that the cost to live in the Property would not exceed 30% of the gross income for an LMI family of four or six utilizing the HUD table in place in the year of the sale for LMI income for the San Marcos MSA.

**Anniversary Date**—Means 365 or 366 days from the Effective Date depending on the number of days in calendar year. For purposes of the Deferred Forgivable Loan, owner must live in the property through the anniversary date of year to receive credit for any part of the year. For example, if the Effective Date is June 30 of a year, a single year of compliance period would end June 29 the following year.

**Buyer in Good Faith**—Means a bona fide buyer who is willing and able to buy the Property under the terms and conditions of this LURA.

**City**—Means the City of San Marcos.

**Compliance Monitoring Procedures**—Means those procedures and requirements adopted or imposed by the City and modified by the City from time to time, for the purpose of discharging its responsibilities pursuant to the Grant including, but not limited to the Single Family Owner-Occupied Housing Rehabilitation and Reconstruction Policy.

**Compliance Period**—Means the length of Term required under the Policy as listed below and as indicated in the Note:

<table>
<thead>
<tr>
<th>Amount of Assistance</th>
<th>Length of Forgivable Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reconstruction/New Construction</td>
<td>30 years</td>
</tr>
</tbody>
</table>

The Compliance Period shall begin on the Effective Date and end after the Term of the Compliance has been met on the Anniversary date.

**Effective Date**—Means the date in the preamble of this LURA.
**Fair Market Price**—Will be established based on the value of three recently sold houses within a four block area surrounding the home less the amount of funding remaining for not completing the Compliance Period on the Promissory Note. If not a sufficient number of homes have been sold in an arms-length transaction within the past year, then at the city’s expense, an independent appraiser registered with the State of Texas shall conduct an appraisal on the current value of the home.

**LMI (Low to Moderate Income)**—Will be determined by utilizing HUD’s LMI table for the San Marcos MSA at the time of the sale of the property. If it is a two bedroom home, the income levels for a family of four (4) will be utilized more than two bedrooms the income levels for a family of six (6) will be utilized.

**LURA or Declaration**—Means this restrictive covenant when executed by the Parties.

**MSA**—Means HUD Metropolitan Statistical Area that includes San Marcos when a sale event occurs.

**Note**—Means the Note signed between the Owner and the City that sets the length of the Deferred Forgivable Loan and included as Addendum B.

**Policy**—Means the City of San Marcos Single Family Owner Occupied Rehabilitation and Reconstruction Policy as it may be amended from time to time.

**Program**—Means the City of San Marcos Disaster Recovery Program.

**Property**—Means the land associated with the repair, reconstruction or construction including the improvements on the land constructed or repaired by the City.

**Purchase Price**—Means the best available price that allows an LMI person(s) to acquire the Property for an amount that will allow the home to remain as Affordable Housing where the payment (not to include taxes of insurance) of any note or mortgage to not exceed 30% of the gross income of an LMI Family of four (4) for two bedrooms or an LMI Household of six (6) based on the San Marcos MSA in the year of the sale.

**Right of First Refusal**—Means the City has the right to purchase the land and improvements on the land provided by the city for any HAP program prior to sale to the general public. The owner must provide notice to the city at least 120 days prior to offering the property for sale. The City may elect to purchase the home for the Fair Market Price.

**Term**—Means the length of time this Declaration shall remain in effect as set out in Section 4 hereof.

**Transferred Property**—Means the underlying land and improvements or the Manufactured Housing Unit used to establish eligibility for the Program.

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**SECTION 2 – RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND**

(a) The City shall cause this Declaration and all amendments hereto to be recorded and filed in the official real property records in Hays County. Upon recording, the City shall transmit to the Owner a copy of the filed LURA stamped by Hays County to show the date of recordation and the volume and page numbers of record where the recorded document may be found.
The Owner shall obtain the written consent of any existing lienholder of record on the Development to this Declaration and the requirements hereof prior to participation in the program. The Owner represents and warrants to the Department that attached hereto as Addendum A and made a part hereof is an executed and acknowledged “Consent and Subordination of Lienholder” from each existing lienholder, if any, as of the effective date hereof.

SECTION 3 – REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner hereby represents covenants and warrants as follows:

(a) The Owner possesses all legal right, power and authority to execute and deliver this Declaration.

(b) The Owner has, at the time of execution and delivery of this Declaration, good and indefeasible fee simple title to, or a leasehold interest, free and clear of any lien, charge, or other encumbrance, except those created by any loan documents relating to the Program, or those which are created pursuant to this Declaration for the Transferred Property to be transferred to the City. If a Lien exists it will be extinguished or transferred under program rules before transfer to the City.

(c) The Owner agrees to notify the City in writing of any sale, transfer, or exchange of the property, and to provide to the City the name(s) and address(es) of such prospective buyer before the sale is complete for City approval. In the case of a First Right of Refusal allowed to the City, the Owner will notify the City prior to listing. If the Owner fails to notice the City prior to a listing for sale, the Owner shall be responsible to any fees due to a party who has signed a contract to assist with the sale and will not be included in the Fair Market Value price.

(d) The Owner represents, warrants, and agrees they will maintain sufficient casualty and hazard insurance on the Property so that if any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the property to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and to continuously act in accordance with the terms of this Declaration.

(e) The Owner will continue to maintain the Property in good repair and pay all taxes and assessments due against the Property.

(f) For the duration of the Compliance Period if the Property was provided to the Owner as part of the Program, the Owner agrees that the sale of this property is subject to the Right of First Refusal by the City at Fair Market Price. In the event the City does not exercise its Right of Refusal, during the Compliance Period, the Owner must offer the property for sale to LMI person(s) at a Purchase Price that allows the Buyer in Good Faith to occupy the property as Affordable Housing. The Owner has no right to demand the City purchase the Property.

(g) The Owner will cooperate with the City for annual Compliance Period materials as requested.

(h) Nothing in this LURA provides a Third Party Right of Action or creates any independent rights for the purchase of this Property by any individual or organization. The City’s First Right of Refusal must be exercised on the voluntary sale of the home. In the event of Condemnation or eminent domain, the city policies regarding those governmental action shall control over this LURA.

(i) No secondary financing instruments may be filed against this property without express authorization from the City. In addition, in the event that the City authorizes a secondary financing instrument, this LURA will remain superior to any subsequent instruments.
SECTION 4 – TERM OF DECLARATION

(a) This Declaration, even if not filed in the Property Records until a later date, shall become effective with respect to Property on the Effective Date.

(b) Notwithstanding subsection (a) above the terms of this agreement shall be modified as applicable in certain limited circumstances described below in section (2), this Declaration shall terminate:

1) If the assisted homeowner continues to occupy the home until the term of the note expires, the owner pays nothing and there are no conditions on the disposition of the property. If the property is sold, transferred or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the term of the forgivable loan period, the repayment terms of the Note will be enforced. If the assisted homeowner for any reason (other than the cases illustrated in 2. below) ceases to reside in the assisted unit during the City’s CDBG-DR contract period, only LMI persons may reoccupy the unit until the contract is administratively closed by the Department or the CDBG-DR contract period expires, whichever is earlier.

2) Accelerated Forgiveness in Certain Cases: In the event of (a) the death, (b) relocation to a managed care facility, or (c) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the City may, at its sole discretion, forgive any remaining loan balance or exercise the City’s Right of First Refusal.

SECTION 5 – ENFORCEMENT, ADMINISTRATION AND COMPLIANCE

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of this Declaration or the Policy.

(b) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Declaration is to assure compliance with the Policy.

(c) The Owner agrees the City may, at reasonable times and upon adequate notice at any time during the construction, rehabilitation, or post occupation, enter and inspect the Development to evaluate its physical and financial condition, construction, rehabilitation, operation, management, and maintenance.

(d) The Owner agrees that it will respond to requests for proof of ownership and habitation by the City.

SECTION 6 - MISCELLANEOUS

(a) Severability. This Declaration is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Declaration or the Application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Declaration and the Application of such provision to other persons or circumstances
shall not be affected thereby, but rather shall remain in full force and effect and may be enforced to the
greatest extent permitted by law and in the manner that best carries out the purposes of this Declaration.

(b) Notices. All notices to be given pursuant to this Declaration shall be in writing and shall be deemed
given when mailed by certified or registered mail, return receipt requested, delivered by hand, or delivered
by any other method permitted by law, to the parties hereto at the addresses set forth below, or to such other
place as a party may from time to time designate in writing.

TO THE CITY:

City of San Marcos
630 E. Hopkins Street
San Marcos, Texas 78666

TO THE OWNER:

Owner
CITY, STATE, ZIP
ATTN:

The City, and the Owner, may, by notice given hereunder, designate any further or different addresses to
which subsequent notices, certificates or other communications shall be sent.

(c) Amendment. This Agreement may not be amended or modified except by written instrument executed
by both Owner and City unless otherwise agreed to herein.

(d) Governing Law. This Declaration shall be governed by the laws of the State of Texas, and, where
applicable, the laws of the United States of America.

(e) Survival of Obligations. The obligations of the Owner as set forth herein and in the Application shall
survive the rehabilitation, reconstruction, or new construction of the Property.

(f) Interpretation. The City’s interpretation of this Declaration shall be controlling for purposes of
determining whether (i) the Compliance Period and (ii) this Declaration has been terminated in
accordance with Section 5 hereof.

In Witness Whereof the Owner and the City have Caused this Declaration to be signed by their Duly
Authorized Representatives, as of the day and year first written above.

For Owner:

___________________________________________
The State of Texas §

County of Hays §

On this the ____________ day of __________, 20___, before me appeared _________________________ who provided me with government issued photo identification, acknowledged the above information as true and correct and fully executed the forgoing instrument.

__________________________________________
Notary Public

My Commission Expires _____________________

For City:

The State of Texas §

County of Hays §

On this the ____________ day of __________, 20___, before me appeared _________________________ who provided me with government issued photo identification, acknowledged the above information as true and correct and fully executed the forgoing instrument.

__________________________________________
Notary Public

My Commission Expires _____________________
Addendum A to Declaration—Consent and Subordination of Lien Holder
(if necessary for any lien holder)

The undersigned lien holder hereby consents to the execution of the Property located at ________________________________ and the Lien Holder hereby subordinates its lien to the Rights and interests Created Pursuant to the Declaration.

Lien Holder acknowledges and agrees that, Pursuant to Section 4(B)(1) of the Declaration will terminate upon foreclosure or deed in lieu of foreclosure upon the recorded declaration but the Declaration may create a limitation on the sale of the home.

Executed to be effective the _____ day of _______________________, 20__.

___________________________________
Authorized Signature of Lien Holder

The State of ___________ §
County of _______________ §

On this the ____________ day of _________, 20___, before me appeared _________________________ who provided me with government issued photo identification, acknowledged the above information as true and correct and fully executed the forgoing instrument.

________________________________________
Notary Public

My Commission Expires _________________
ADDENDUM B
NOTE SIGNED BY HOMEOWNER
AGENDA CAPTION:
Consider approval of Resolution 2018-61R, approving an Action Plan that outlines further measures to be taken to implement or enhance the purposes and objectives of the newly adopted San Marcos Development Code ("Code SMTX") and associated changes to the City’s Comprehensive Plan; authorizing City Staff to undertake such efforts as are necessary to implement such measures; and declaring an effective date.

Meeting date: May 1, 2018

Department: Planning and Development Services

Amount & Source of Funding
Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

Fiscal Note:
Prior Council Action: Discussion of a draft resolution during the February 20, 2018 City Council Meeting and the March 6, 2018 Code SMTX Work Session, postponement at the April 17, 2018 City Council Meeting.

City Council Strategic Initiative:
Workforce Housing
Choose an item.
Choose an item.

Comprehensive Plan Element(s):
☐ Economic Development - Choose an item.
☒ Environment & Resource Protection - Natural Resources necessary for community's health, well-being, and prosperity secured for future development
☒ Land Use - Direct Growth, Compatible with Surrounding Uses
☒ Neighborhoods & Housing - Protected Neighborhoods in order to maintain high quality of life and stable property values
File #: Res. 2018-61R(b), Version: 1

- Parks, Public Spaces & Facilities - Collection of connected and easily navigated parks and public spaces
- Transportation - Safe, Well coordinated transportation system implemented in an environmentally sensitive manner
☐ Not Applicable

**Master Plan:** Vision San Marcos - A River Runs Through Us

**Background Information:**
This resolution outlines the next steps the City will take after the New Code adoption to support the Comprehensive Plan and implement small area plans, create overlays and rezone intensity and growth areas to support the Comprehensive Plan.

**Council Committee, Board/Commission Action:**
N/A

**Alternatives:**
N/A

**Recommendation:**
Staff recommends approval
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN ACTION PLAN THAT OUTLINES FURTHER MEASURES TO BE TAKEN TO IMPLEMENT OR ENHANCE THE PURPOSES AND OBJECTIVES OF THE NEWLY ADOPTED SAN MARCOS DEVELOPMENT CODE (“CODE SMTX”) AND ASSOCIATED CHANGES TO THE CITY’S COMPREHENSIVE PLAN; AUTHORIZING CITY STAFF TO UNDERTAKE SUCH EFFORTS AS ARE NECESSARY TO IMPLEMENT SUCH MEASURES; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The following measures necessary to implement or enhance the purposes and objectives of the newly adopted San Marcos Development Code (“Code SMTX”) and associated changes to the city’s Comprehensive Plan, “Vision San Marcos: A River Runs Through Us” are hereby approved:

A. Phase I (Anticipated 6-Month Process): Initiate Neighborhood Character Study discussions with residents and landowners within defined neighborhoods. Scope to include identifying Small Areas for further study and planning as outlined below.

B. Phase II (Anticipated 10-Month Process): Gather input from and work with neighborhood residents and landowners to complete a final draft for each proposed Small Area Plan.

C. Phase III: Hold outreach with residents and landowners impacted by each proposed Small Area Plan prior to its adoption.

D. Implement the City’s Workforce Housing Initiative as directed by the City Council’s Affordable Housing Committee and City Council.


F. Monitor the effectiveness of the City’s new San Marcos Development Code with the implementation of an annual Code Update process.

G. Initiation of Corridor Overlays including Wonder World Drive Plan.

H. Encourage growth in Intensity Zones identified through the Comprehensive Plan.
I. Update the Downtown Master Plan.

PART 2. City staff is hereby authorized to undertake such efforts as are necessary to implement such measures.

PART 3. This resolution shall become effective immediately from and after its passage.

ADOPTED on May 1, 2018.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
What are Small Area Plans

A small area plan is a document that provides guidelines for specific policy actions in concert with the City’s overall Comprehensive Plan and with the community vision for the area. A small area plan can identify needs for new overlay districts, identify areas for city-initiated zonings, identify other code amendments, and call for Capital Improvement Projects to be focused in the area.

Considerations

Demand – Small area plans should be focused on specific areas where there is community consensus that additional planning is needed to guide re-development. Small area plans should focus on areas where positive change is accepted by the community.

Strategy – A clearly articulated strategy and problem that is being solved is an important first step for any planning initiative. Small area plans should be focused on finding solutions to problems surrounding the redevelopment of an area.

Area – The process of defining the areas for additional planning and prioritizing the plans should be both data driven and based on community input. The number of plans and size of the planning areas have a significant impact on cost.

Outcome – A small area planning process sets clear expectations up front about what the outcomes of the planning initiative are. The outcome of the plan should provide clear implementation steps that can be completed.

Updates – Small area plans are typically focused on implementation steps to solve a specific problem. These are not plans that are expected to be kept up to date and revised over time.

Process

The identification of planning areas, expected outcomes, timelines, and strategies is the first and most critical step in a planning initiative. This would represent the first step in the completion of neighborhood character studies and should correspond with significant public involvement and an update to the Comprehensive Plan Neighborhood Character Studies pages.

Williams Drive Corridor Study

The City of Georgetown utilized CAMPO funding to complete a corridor study for Williams Dr.

Eisenhower West Small Area Plan

The Eisenhower West small area plan located in Washington DC is an award winning example of a plan that focuses on sustainability features.
BACKGROUND

Vision San Marcos Comprehensive Plan

Vision San Marcos Comprehensive Plan says that:

“Neighborhood Character studies will be conducted to ensure that each neighborhood maintains its existing character, and follows development and redevelopment patterns desired by the residents. These studies will result in specific guidelines for each neighborhood, which are created by the public with professional and technical input from City Staff. (6) The DNA of the neighborhoods will be analyzed and recoded back into the regulations for each neighborhood. (1) A standard methodology will be utilized within each neighborhood and all results will be community driven. (2) City staff will first reach out to residents and property owners within predefined neighborhood boundaries. Discussions will begin with verifying or reestablishing those boundaries to suit conditions as they currently exist. The participants will then be involved in (3) a “walk through” of their neighborhood followed by a caucus to (4) discuss how Vision San Marcos: A River Runs Through Us will be applied. The caucus will address various applicable objectives from the plan as well as (5) how the preferred scenario and intensity matrix will guide the future of the area.”

Code SMTX

During the Code SMTX process a significant amount of work was done to advance the goals of the Comprehensive Plan in Existing Neighborhoods. In addition to other outreach efforts, the process included these items from the Comprehensive Plan:

1. “A standard methodology and outreach process.”
2. “Reaching out to residents and property owners.”
3. “A walk-through of the neighborhoods.”
4. “A discussion about how Vision San Marcos will be applied”

Feedback during the Neighborhood Workshop process included these two overarching statements:

Maintain Predominantly Single Family areas.

Encourage Multi-family that is small in scale and (7) located appropriately.

These statements formed the foundation of the zoning strategy for Existing Neighborhoods in Code SMTX including:

5. “Create new zoning districts based on the Preferred Scenario Map and Land Use Intensity Matrix for medium and high density residential.”
6. “Recode the DNA of Neighborhoods into the regulations in Code SMTX.”

Next Steps

Code SMTX developed tools to encourage multi-family that is small in scale. Additional planning efforts are needed to:

7. Apply these tools in appropriate places.

Small area plans direct additional planning to areas that are changing and growing in order to ensure that these areas follow desired development and redevelopment patterns. Predominantly Single Family areas that are not changing and growing do not warrant additional planning efforts.
SMALL AREA PLAN PROCESS

Staff is proposing a two-step process.

**Step 1: Project Plan**

The project plan consists of the identification and prioritization of plan areas including boundaries, challenges and opportunities for each plan area. The project plan phase will also include an update to the Neighborhood Character Study page of the Comprehensive Plan. The project plan phase only needs to be done once and includes the following steps:

1. **Susceptibility to Change Analysis.** A susceptibility to change analysis includes an overlay of several different data sets that represent indicators of change. These data include:
   - Feedback from the Workshop – Comments from the neighborhood workshops are used to identify hot spots.
   - Land to Improvement Ratio – When land value is going up faster than improvement value in an area this area is susceptible to demolition and reconstruction with larger buildings or more units.
   - Occupancy – When there is a shift in the rates of Owner Occupancy over time this is an indicator of change.
   - Building Permits – More construction is an indication of change.
   - Zoning Districts – When there is a large mix in the number of different zoning districts this is an indication that an area needs additional planning.
   - Walk Score – Areas that are close in proximity to services and employers have a high walk score and are more susceptible to change.
   - Historic Districts – Areas with an historic overlay in place are less susceptible to change.

When these layers are combined and weighted properly they can produce a map that shows areas most susceptible to change. Staff has partnered with Texas State to produce this analysis.

2. **Public Outreach.** Once the susceptibility to change analysis has been finalized staff will hold a workshop to ask the following questions of the Community:
   - **Where** is additional planning needed most?
   - **Why** is additional planning needed in each of these areas?

3. **Draft Project Plan.** The project plan will include a prioritization of areas of study and the unique challenges and opportunities that should be addressed in each of these areas. The project plan will also include a proposed update to the Comprehensive Plan with the process and priorities around additional planning efforts.

4. **Policy Review.** During the policy review phase the Draft project plan and update to the Comprehensive Plan will be presented for review and comment by Boards and Commissions including Neighborhood Commission, Historic Preservation Commission, the Planning and Zoning Commission and finally during a City Council Work Session. During the Work Session staff will be seeking policy direction on outstanding items.

5. **Final Draft.** Staff will prepare a final draft of the Project Plan and Comprehensive Plan update

6. **Approval Meetings.** The Final Draft will be presented for recommendation by the Planning Commission and approval by the City Council.
Step 2: Small Area Plan
Step two includes conducting the plans. Plans can be conducted concurrently and will include the following tasks and deliverables:

1. **Data Gathering and Analysis.** The first task during the small area planning effort is to gather data, demographics, photos, and statistics about the area being planned. Gathering, analyzing and presenting information about the area informs the public conversation and leads to the identification of the challenges and opportunities that exist in an area.

2. **Public Workshop #1.** The purpose of this workshop will be to present the data and research and identify the challenges and opportunities that need solutions.

3. **Draft Plan Production.** The draft plan will present ideas for solutions to each of the identified challenges and opportunities.

4. **Public Outreach #2.** The second phase of public outreach will include a workshop to present the draft plan and a subsequent period of review and comment on the draft plan.

5. **Policy Review.** The purpose of the Policy Review phase is to present the draft plan and comments to boards and commissions for review and recommendations and finally to City Council during a Council Work Session. The Work Session will focus on the outstanding comments and recommendations where policy direction is needed.

6. **Final Plan Production.** Following policy review and direction staff will produce a final draft of the Small Area Plan.

7. **Plan Adoption.** The Final Plan will be presented to the Planning and Zoning Commission for recommendation and City Council for final approval.

*The Williams Drive Corridor Study in Georgetown utilized a traditional project management approach and had a budget that included CAMPO grants. The total budget was - $350,000*

### CONCEPTS AND RECOMMENDATIONS

The recommended concepts for corridor improvements are expected to provide optimal benefits in terms of multimodal mobility, safety, economic vitality, and urban design along Williams Drive. For the purpose of this study, the corridor was divided into two separate zones: the Corridor and the Center Area. This enabled the creation of concept plans more tailored to the unique needs of different segments of Williams Drive.

**CORRIDOR PLAN:** Development of a context-sensitive plan for Williams Drive (Lakeway Dr to Jim Hogg Rd), which addresses access management strategies, multi-modal transportation elements, safety and operational improvement.

**CENTER AREA PLAN:** Development of a plan for a vibrant mixed-use center and gateway (Lakeway Dr to Austin Ave and includes land out to Northwest Blvd).
Phase 1: Project Plan

- Establish and Prioritize Areas City Wide with community and Council
- Update Neighborhood Character Study Page of Comp Plan
- FY2018 - $10,000
- 6 Months

Phase 2: Small Area Plans

- Plans may be conducted concurrently
- FY2019 - $50,000
- 10 Months
Phase I:
Identify / Prioritize Areas
City Wide
Update NCS page of the Comp Plan
6 Month Process
Hot Spot Analysis
2 months
Public Outreach
Where? Why?
1 Month
First Draft
2 Weeks
Policy Review
1 Month
Final Draft
2 Weeks
Approval Meetings
1 Month
Phase I:
Identify / Prioritize Areas
City Wide
Update NCS page of the Comp Plan
6 Month Process
14
Phase II: Small Area Plan Process

Flow Chart

- **Small Area Plan Outcomes:**
  - Based on unique challenges and opportunities
  - Driven by Community and Stakeholders
  - 10 Month Process

- **Data Gathering and Analysis:** 2 months

- **Public Outreach:**
  - 1 Month

- **First Draft:**
  - 2 Months

- **Final Draft:**
  - 1 Month

- **Approval Meetings:**
  - 2 Months

- **Public Outreach and Policy Review:**
  - 2 Month

- **Staff**

- **Community**

- **City Council**
Potential Outcomes:

- Access Management Strategies
- Multi-modal transportation elements
- Gateways
- Promoting shared parking
- Neighborhood parking programs
- Enhanced landscaping
- Additional Roadway connections
- Enable mixed use development
- Create new open spaces
- Opportunities for affordable housing
- Identify Catalytic Sites
- Preserve Historic or Significance
- Slow Traffic
- Incorporate Art
- Guidance for future Land Use
- Zoning Changes
- Economic Development
- Transitions
- Infrastructure

Outcomes Are:

Based on the unique challenges and opportunities of each plan area.

Driven by the values and desires of the stakeholders in the area.
AGENDA CAPTION:
Consider approval, by motion, of the following matters pertaining to the lease of property located at 201 South LBJ (the site of the former Dixie Cream Donut Shop):
   a) Approving the acceptance of an amount in settlement of rent due under an existing lease of real property located at 201 South LBJ.
   b) Approving the termination of the existing lease
   c) Approving a new Lease Agreement of the property with Suenos & Rezo, LLC for the operation of a frozen yogurt shop and authorizing the City Manager to execute the Lease Agreement.

Meeting date: May 1, 2018

Department: City Manager's Office, Steve Parker, Assistant City Manager

Amount & Source of Funding
Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

Fiscal Note:

Prior Council Action: Click or tap here to enter text.

City Council Strategic Initiative: [Please select from the dropdown menu below]
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]
☒ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

Background Information:

At the end of 2013, the City of San Marcos acquired 9,817 square feet of land at the northeast corner of LBJ and MLK from Union Pacific Railroad (UPRR). The 9,817 square foot piece of land acquired was from an original parcel totaling 14,317. This made the City a 68.6% owner of the parcel along with UPRR who holds 31.4%. The building which sits on top of the property was formally owned by Dan Anderson and was ultimately sold to Ruben Becerra in 2015. The City and UPRR has held a ground lease with Mr. Anderson since the City purchased the property from UPRR. At the point the property was acquired, it was not properly communicated to the Finance Department that an annual lease payment would be due from the ground lease. Due to this miscommunication, the annual ground lease was not billed to the owner of the building in 2015 or 2016. The leasing history for this piece of property is noted in the table below:

### DIXIE CREAM LEASE HISTORY

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Lease escalated 3% per year</th>
<th>UPRR Square Footage Allocation</th>
<th>City Square Footage Allocation</th>
<th>City Lease</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>$5,500.00</td>
<td>100.0% $5,500.00</td>
<td>0.0% $ -</td>
<td>Anderson</td>
<td>$5,500.00</td>
</tr>
<tr>
<td>2012</td>
<td>$5,665.00</td>
<td>100.0% $5,665.00</td>
<td>0.0% $ -</td>
<td>Anderson</td>
<td>$5,665.00</td>
</tr>
<tr>
<td>2013</td>
<td>$5,834.95</td>
<td>100.0% $5,834.95</td>
<td>0.0% $ -</td>
<td>Anderson (Assigned to Anderson)</td>
<td>$5,834.95</td>
</tr>
<tr>
<td>2014</td>
<td>$6,010.00</td>
<td>31.4% $1,889.01</td>
<td>68.6% $ 4,120.99</td>
<td>Anderson</td>
<td>$6,010.00</td>
</tr>
<tr>
<td>2015</td>
<td>$6,190.30</td>
<td>31.4% $1,945.68</td>
<td>68.6% $ 4,244.62</td>
<td>Becerra</td>
<td>$6,190.30</td>
</tr>
<tr>
<td>2016</td>
<td>$6,376.01</td>
<td>31.4% $2,004.05</td>
<td>68.6% $ 4,371.95</td>
<td>Becerra</td>
<td>$6,376.01</td>
</tr>
<tr>
<td>2017</td>
<td>$6,567.29</td>
<td>31.4% $2,064.18</td>
<td>68.6% $ 4,503.11</td>
<td>Becerra</td>
<td>$6,567.29</td>
</tr>
</tbody>
</table>

None of the payments due under the “City Lease” column above have been collected by the City. The new owner of the building Mr. Becerra was officially notified by the City in October 2016 that the ground lease existed. Since that time, the City has been renegotiating the lease with Mr. Becerra. Part of that negotiating included agreeing that the City would propose that the usable square footage would be reduced from 9,817 square feet to 4,495 as we feel this is the actual usable square footage of the actual property. This would reduce the 2017 payment from $4,503.11 to $2,063.21. The Staff has also agreed to recommend that the amounts due in 2015 and 2016 should be waived as the City is not able to reasonably prove that Mr. Anderson notified Mr. Becerra of the existing ground lease when he purchased the business in May of 2015. The staff can only confirm that we directly notified Mr. Becerra in October 2016 that a ground lease existed. Mr. Becerra paid the 2017 lease at the reduced area amount of 4,495 square feet which totaled $2,063.21.
Mrs. Ruth Molina, the owner of Yogurt in Love, would now like to lease the property for 2018. The rent will be adjusted by 3% annually, and can also be reset by the City every 3 years. The lease will automatically renew unless proper notice is given by the City. The proposed annual lease payment for 2018 is $2,125.11 based on the reduced area amount of 4,495 square feet, and would be due upon execution of this lease.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

That the Council consider, by motion, on the following matters pertaining to the lease of property located at 201 South LBJ (the site of the former Dixie Cream Donut Shop):

a) Approving the acceptance of an amount in settlement of rent due under an existing lease of real property located at 201 South LBJ.  
b) Approving the termination of the existing lease  
c) Approving a new Lease Agreement of the property with Suenos & Rezo, LLC for the operation of a frozen yogurt shop and authorizing the City Manager to execute the Lease Agreement.
LEASE OF PROPERTY
(YEAR TO YEAR)

This Lease is entered into on May 1, 2018, between the City of San Marcos, Texas, 630
East Hopkins Street (“Lessor”) and Suenos & Rezo, LLC, P.O. Box 601 San Marcos, TX 78666
(“Lessee”).

SECTION 1. PREMISES; USE.

Lessor leases to Lessee and Lessee leases from Lessor the premises (“Premises”) in San
Marcos, Texas, shown in Exhibit A, attached hereto and made a part hereof, subject to the terms
and conditions in this Lease. The Premises may be used for maintenance and operation of one
Lessee-owned building in connection with a retail food service operation, restaurant or bakery,
and other purposes incidental thereto, only, and for no other purpose. Any other use shall be subject
to approval of Lessor’s City Manager in writing.

SECTION 2. TERM.

The term of this Lease shall commence effective as of January 1, 2018, and, unless sooner
terminated as provided in this Lease, shall extend for one year and, thereafter, shall automatically
be extended from year to year.

SECTION 3. FIXED RENT.

A. Upon execution of this Lease by both parties, Lessee shall pay to Lessor a fixed
rent of $2,125.11. Thereafter, Lessee shall pay to Lessor, in advance (on or before January 1),
fixed rent annually. The fixed rent shall be automatically increased by three percent (3%) annually,
cumulative and compounded.

B. Not more than once every three (3) years, Lessor may redetermine the fixed rent. If
Lessor redetermines the rent, Lessor shall notify Lessee of such change.

SECTION 4. INSURANCE.

A. Before commencement of the term of this Lease, Lessee shall provide to Lessor a
certificate issued by its insurance carrier evidencing the insurance coverage required under Exhibit
B attached hereto and made a part hereof.

B. Not more frequently than one every two years, Lessor may reasonably modify the
required insurance coverage to reflect then-current risk management practices of Lessor.

C. All insurance correspondence, certificates and endorsements shall be directed to:
Risk Manager, City of San Marcos, 630 East Hopkins Street, San Marcos, TX 78666.
SECTION 5. SPECIAL PROVISION-CANCELLATION.

Effective upon the commencement of the term of this Lease, the prior lease between the parties by virtue of the assignment of such lease by Union Pacific Railroad Company shall be cancelled and superseded by this Lease.

SECTION 6. IMPROVEMENTS.

No improvements placed upon the Premises by Lessee shall become a part of the realty.

SECTION 7. RESERVATIONS, TITLE AND PRIOR RIGHTS.

A. Lessor reserves to itself, its agents and contractors the right to enter the Premises at such times as will not unreasonably interfere with Lessee's use of the Premises.

B. Lessor reserves (i) the exclusive right to permit placement of signs on the Premises, and (ii) the right to construct, maintain and operate new and existing facilities (including, without limitation, fences, communication facilities, roadways and utilities) upon over, across or under the Premises, and to grant to others such rights, provided that Lessee's use of the Premises is not interfered with unreasonably.

C. Lessee acknowledges that Lessor makes no representations or warranties, express or implied, concerning the title to the Premises, and that the rights granted to Lessee under this Lease do not extend beyond such right, title or interest as Lessor may have in and to the Premises. Without limitation of the foregoing, this Lease is made subject to all outstanding rights, whether or not of record. Lessor reserves the right to renew any such outstanding rights granted by Lessor or Lessor's predecessors.

SECTION 8. PAYMENT OF RENT.

Rent (which includes the fixed advance rent and all other amounts to be paid by Lessee under this Lease) shall be paid in lawful money of the United States of America, at such place as shall be designated by the Lessor, and without offset or deduction.

SECTION 9. TAXES AND ASSESSMENT'S.

A. Lessee shall pay, prior to delinquency, all taxes levied during the life of this Lease on real property and improvements comprising the Premises, together with all personal property and improvements on the Premises.

SECTION 10. WATER RIGHTS.

This Lease does not include any right to the use of water under any water right of Lessor, or to establish any water rights except in the name of Lessor.
SECTION 11. CARE AND USE OF PREMISES.

A. Lessee shall use reasonable care and caution against damage or destruction to the Premises. Lessee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. Lessee shall keep the sidewalks and public ways on the Premises free and clear from any obstructions or conditions which might create a hazard.

B. Lessee shall not permit any sign on the Premises, except signs relating to Lessee's business that are authorized by permit from the Lessor.

C. If any improvement on the Premises other than the Lessor Improvements is damaged or destroyed by fire or other casualty, Lessee shall, within thirty (30) days after such casualty, remove all debris resulting therefrom. If Lessee fails to do so, Lessor may remove such debris, and Lessee agrees to reimburse Lessor for all expenses incurred within thirty (30) days after rendition of Lessor's bill.

D. Lessee shall comply with all governmental laws, ordinances, rules, regulations and orders relating to Lessee's use of the Premises and this Lease.

SECTION 12. HAZARDOUS MATERIALS, SUBSTANCES AND WASTES.

A. Without the prior written consent of Lessor, Lessee shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances, except that Lessee may use, if lawful, small quantities of common chemicals such as adhesives, lubricants and cleaning fluids in order to conduct business at the Premises. The consent of Lessor may be withheld by Lessor for any reason whatsoever, and may be subject to conditions in addition to those set forth below. It shall be the sole responsibility of Lessee to determine whether or not a contemplated use of the Premises is a Hazardous Substance use.

B. In no event shall Lessee (i) release, discharge or dispose of any Hazardous Substances, (ii) bring any hazardous wastes as defined in the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., as amended (“RCRA”) onto the Premises, (iii) install or use on the Premises any underground storage tanks.

C. If Lessee uses or permits the use of the Premises for a Hazardous Substance use, with or without Lessor's consent, Lessee shall furnish to Lessor copies of all permits, identification numbers and notices issued by governmental agencies in connection with such Hazardous Substance use, together with such other information on the Hazardous Substance use as may be requested by Lessor. If requested by Lessor, Lessee shall cause to be performed an environmental assessment of the Premises upon termination of the Lease and shall furnish Lessor a copy of such report, at Lessee's sole cost and expense.

D. Without limitation of the provisions of Section 17, Lessee shall be responsible for
all damages, losses, costs, expenses, claims, fines and penalties related in any manner to any Hazardous Substance use of the Premises (or any property in proximity to the Premises) during the term of this Lease or, if longer, during Lessee's occupancy of the Premises, regardless of Lessor's consent to such use or any negligence, misconduct or strict liability of any Indemnified Party (as defined in Section 17), and including, without limitation, (i) any diminution in the value of the Premises and/or any adjacent property or any of the Indemnified Parties, and (ii) the cost and expense of clean-up, restoration, containment, remediation, decontamination, removal, investigation, monitoring, closure or post-closure, notwithstanding the foregoing, Lessee shall not be responsible for Hazardous Substances (i) existing on or under the Premises prior to the earlier to occur of the commencement of the term of the Lease or Lessee's taking occupancy of the Premises, or (ii) migrating from adjacent property not controlled by Lessee, or (iii) placed on, in or under the Premises by any of the Indemnified Parties; except where the Hazardous Substance is discovered by; or the contamination is exacerbated by, any excavation or investigation undertaken by or at the behest of Lessee. Lessee shall have the burden of proving by a preponderance of the evidence that any of the foregoing exceptions to Lessee's responsibility for Hazardous Substances applies.

E. In addition to the other rights and remedies of Lessor under this Lease or as may be provided by law, if Lessor reasonably determines that the Premises may have been used during the term of this Lease or any prior lease with Lessee for all or any portion of the Premises, or are being used for any Hazardous Substance use, with or without Lessor's consent thereto, and that a release or other contamination may have occurred, Lessor may, at its election and at any time during the life of this Lease or thereafter (i) cause the Premises and/or any adjacent premises of Lessor to be tested, investigated, or monitored for the presence of any Hazardous Substance, (ii) cause any Hazardous Substance to be removed from the Premises and any adjacent lands of Lessor, (iii) cause to be performed any restoration of the Premises and any adjacent lands of Lessor, and (iv) cause to be performed any remediation of, or response to, the environmental condition of the Premises and the adjacent lands of Lessor, as Lessor reasonably may deem necessary or desirable; and the cost and expense thereof shall be reimbursed by Lessee to Lessor within thirty (30) days after rendition of Lessor’s bill. In addition, Lessor may, at its election, require Lessee, at Lessee’s sole cost and expense, to perform such work, in which event, Lessee shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer approved in advance by Lessor.

F. For purposes of this Section 12, the term “Hazardous Substance” shall mean (i) those substances included within the definitions of “hazardous substance,” “pollutant,” “contaminant,” or “hazardous waste,” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 960 et seq., as amended or in RCRA, the regulations promulgated pursuant to either such Act, or state laws and regulations similar to or promulgated pursuant to either such Act, (ii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) flammable or explosive, or (D) radioactive; and (iii) such other substances, materials and wastes which are or become regulated or classified as hazardous or toxic under any existing or future federal, state or local law,

SECTION 13. UTILITIES.
A. Lessee will arrange and pay for all utilities and services supplied to the Premises or to Lessee.

B. All utilities and services will be separately metered to Lessee. If not separately metered, Lessee shall pay its proportionate share as reasonably determined by Lessor.

SECTION 14. LIENS.

Lessee shall not allow any liens to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such liens at Lessee's expense.

SECTION 15. ALTERATIONS AND IMPROVEMENTS; CLEARANCES.

A. No alterations, improvements or installations may be made on the Premises without the prior consent of Lessor. Such consent, if given, shall be subject to the needs and requirements of the Lessor in the operation of its property and utilities and to such other conditions as Lessor determines to impose. In all events, such consent shall be conditioned upon strict conformance with all applicable governmental requirements.

B. All alterations, improvements or installations shall be at Lessee's sole cost and expense.

C. Any actual or implied knowledge of Lessor of a violation of the requirements of this Lease or of any governmental requirements shall not relieve Lessee of the obligation to comply with such requirements, nor shall any consent of Lessor be deemed to be a representation of such compliance.

SECTION 16. AS IS.

Lessee accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Lessee acknowledges that Lessor shall have no duty to maintain, repair or improve the Premises.

SECTION 17. RELEASE AND INDEMNITY,

A. As a material part of the consideration for this Lease, Lessee, to the extent it may lawfully do so, waives and releases any and all claims against Lessor for, and agrees to indemnify, defend and hold harmless Lessor, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against, any loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorneys' fees and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, Lessor, Lessee, or any employee of Lessor or Lessee) (i) for personal injury or property damage caused to any person while on or about the Premises, or (ii) arising from or related to any use of the Premises by Lessee or any
invitee or licensee of Lessee, any act or omission of Lessee, its officers, agents, employees, licensees or invitees or any breach of this Lease by Lessee.

B. The foregoing release and indemnity shall apply regardless of any negligence, misconduct or strict liability of any Indemnified Party, except that the indemnity, only, shall not apply to any Loss determined by final order of a court of competent jurisdiction to have been caused by the sole active direct negligence of any Indemnified Party.

C. Where applicable to the Loss, the liability provisions of any contract between Lessor and Lessee covering the carriage of shipments or trackage serving the Premises shall govern the Loss and shall supersede the provisions of this Section 17.

D. No provision of this Lease with respect to insurance shall limit the extent of the release and indemnity provisions of this Section 17.

SECTION 18. TERMINATION.

A. Lessor may terminate this Lease for Lessee's default by giving Lessee notice of termination, if Lessee (i) defaults under any obligation of Lessee under this Lease and, after written notice is given by Lessor to Lessee specifying the default, Lessee fails either to immediately commence to cure the default, or to complete the cure expeditiously but in all events within thirty (30) days after the default notice is given, or (ii) Lessee abandons the Premises for a period of one hundred twenty (120) consecutive days.

B. Notwithstanding the term of this Lease set forth in Section 2, Lessor or Lessee may terminate this Lease without cause upon thirty (30) day's written notice to the other party; provided, however, that at Lessor's election, no such termination by Lessee shall be effective unless and until Lessee has vacated and restored the Premises as required in Section 20A, at which time Lessor shall refund to Lessee, on a pro-rata basis, any unearned rental paid in advance. Notwithstanding anything to the contrary in this Lease, if Lessee has not complied with the requirements of Section 20A, this Lease, together with all terms contained herein (including payment of rent) will remain in effect until the requirements of Section 20A are met, unless Lessor, in its sole discretion, elects to terminate this Lease.

C. This Lease shall automatically terminate without notice effective as of the date of termination of Lessee’s current or future lease with Union Pacific Railroad Company for the approximately 4,500 square feet of land upon which the balance of Lessee’s building sits. Upon such termination, rent shall be prorated and Lessor shall refund to Lessee, on a pro-rata basis, any unearned rental paid in advance, subject to Lessee’s compliance with Section 20A and less any other offsets and amounts owed to Lessor under this Lease.

SECTION 19. LESSOR’S REMEDIES.

Lessor's remedies for Lessee’s default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of Lessee, collect and receive the rent from reletting, and charge Lessee for the cost of reletting, and/or (b) terminate
this Lease as provided in Section 18 above and sue Lessee for damages, and/or (c) exercise such other remedies as Lessor may have at law or in equity. Lessor may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out Lessee, all without being liable for damages.

SECTION 20. VACATION OF PREMISES; REMOVAL OF LESSEE’S PROPERTY.

A. Upon termination howsoever of this Lease, Lessee (i) shall have peaceably and quietly vacated and surrendered possession of the Premises to Lessor, without Lessor giving any notice to quit or demand for possession, and (ii) shall have removed from the Premises all structures, property and other materials not belonging to Lessor, including all personal property and restored the surface to as good a condition as the same was in before such structures were erected, including, without limitation, the removal of foundations, the filling in of excavations and pits, and the removal of debris and rubbish.

B. If Lessee has not completed such removal and restoration prior to termination of this Lease, Lessor may, at its election, and at any time or times, (i) perform the work and Lessee shall reimburse Lessor for the cost thereof within thirty (30) days after bill is rendered (ii) take title to all or any portion of such structures or property by giving notice of such election to Lessee, and/or (iii) treat Lessee as a holdover tenant at will until such removal and restoration is completed.

SECTION 21. UNDERGROUND FACILITIES.

Lessee shall, before conducting any excavation or installing any improvements, arrange for a cable, pipe, or utility locator, and make arrangements for relocation or other protection of any underground facilities. Notwithstanding compliance by Lessee with this Section 21, the release and indemnity provisions of Section 17 above shall apply fully to any damage or destruction of any telecommunications or utility system.

SECTION 22. NOTICES.

Any notice, consent or approval to be given under this Lease shall be in writing and personally served, sent: (1) by email to citymanagerinfo@sanmarcostx.gov; or (2) by reputable courier service, or sent by certified mail, postage prepaid, return receipt requested, to Lessor at: City of San Marcos, Attn: City Manager, 630 East Hopkins Street, San Marcos, TX 78666; and to Lessee by email to gmmmechanicalhvac@gmail.com; or, sent by certified mail, postage prepaid, return receipt requested, at the above address, or such other address as a party may designate in notice given to the other party. Mailed notices shall be deemed served five (5) days after deposit in the U.S. Mail. Notices which are faxed, emailed, are personally served or sent by courier service shall be deemed served upon receipt.

SECTION 23. ASSIGNMENT.

A. Lessee shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease, without the prior consent of Lessor, which
consent may be denied at Lessor's sole and absolute discretion. Any purported transfer or assignment without Lessor's consent shall be void and shall be a default by Lessee.

B. Subject to this Section 23, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

SECTION 24. CONDEMNATION.

If, as reasonably determined by Lessor, the Premises cannot be used by Lessee because of a condemnation or sale in lieu of condemnation, then this Lease shall automatically terminate. Lessor shall be entitled to the entire award or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award or proceeds for the value of the leasehold estate created by this Lease. Notwithstanding the foregoing, Lessee shall have the right to pursue recovery from the condemning authority of such compensation as may be separately awarded to Lessee for Lessee's relocation expenses, the taking of Lessee's personal property and fixtures, and the interruption of or damage to Lessee's business.

SECTION 25. DISPUTES; ATTORNEY'S FEES; VENUE.

If either party retains an attorney to enforce this Lease (including, without limitation, the indemnity provisions of this Lease), the prevailing party is entitled to recover reasonable attorney's fees. Venue for any dispute arising under this Lease shall be in the state courts having appropriate jurisdiction in Hays County, Texas, or, if in federal court, the United States District Court for the Western District of Texas, Austin Division.

SECTION 26. RIGHTS AND OBLIGATIONS OF LESSOR.

If any of the rights and obligations of Lessor under this Lease are substantially and negatively affected by any changes in the laws applicable to this Lease, whether statutory, regulatory or under federal or state judicial precedent; then Lessor may require Lessee to enter into an amendment to this Lease to eliminate the negative effect on Lessor's rights and obligations to the extent reasonably possible.

SECTION 27. ENTIRE AGREEMENT; AMENDMENT.

This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction, including any other lease under which all or any portion of the Premises was leased to Lessee. Notwithstanding the prior sentence, Lessee shall retain any and all obligations and liabilities which may have accrued under any other such agreements prior to the commencement of the term of this Lease, except as waived by Lessor in writing. This Lease may be amended only by a written instrument signed by Lessor and Lessee.

SIGNATURES ON NEXT PAGE
LESSOR:

By: Bert Lumbreras, City Manager

LESSEE:

By: Ruth Molina
Name: Ruth Molina
Title: Owner
EXHIBIT B
Insurance Requirements
(Lease of Land)

Lessee shall, at its sole cost and expense, procure and maintain during the life of this Lease (except as otherwise provided in this Lease) the following insurance coverage:

A. Commercial General Liability Insurance. Commercial general liability (CGL) with a limit of not less than $2,000,000 each occurrence and an aggregate limit of not less than $4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

B. Business Automobile Coverage Insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less $2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

In any and all claims against Lessor by any employee of Lessee, Lessee's indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under any workers compensation acts, disability benefits acts or other employee benefits acts.

C. Pollution Liability Insurance. If the permitted use under this Lease includes any generation, handling, enrichment, storage, manufacture, or production of hazardous materials, pollution liability insurance is required. Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 04 (or a substitute form providing equivalent liability coverage), with limits of at least $5,000,000 per occurrence and an aggregate limit of $10,000,000. If hazardous materials are disposed of from the Premises, Lessee must furnish to Lessor evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of $1,000,000 per loss, and an annual aggregate of $2,000,000.

D. Umbrella or Excess Insurance. If Lessee utilizes umbrella or excess policies, these policies must “follow form” and afford no less coverage than the primary policy.

E. All policy(ies) required above must include Lessor as an “Additional Insured” using ISO Additional Insured Endorsement CO 20 11 (or a substitute form providing equivalent
The coverage provided to Lessor as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 11, provide coverage for Lessor's negligence whether sole or partial, active or passive, and shall not be limited by Lessee's liability under the indemnity provisions of this Lease.

F. Lessee waives all rights against Lessor and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers’ liability or commercial umbrella or excess liability insurance obtained by Lessee required by this agreement.

G. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Lease, or (b) all punitive damages are prohibited by the state of Texas.

H. Prior to execution of this Lease, Lessee shall furnish Lessor with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Lease.

I. All insurance policies must be written by a reputable insurance company acceptable to Lessor, and authorized to do business in the state of Texas.

J. The fact that insurance is obtained by Lessee, or by Lessor on behalf of Lessee, will not be deemed to release or diminish the liability of Lessee, including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by Lessor from Lessee or any third party will not be limited by the amount of the required insurance coverage.
AGENDA CAPTION:
Discuss and consider appointments to fill vacancies the Cemetery Commission and the San Marcos Commission on Children and Youth and provide direction to Staff.

Meeting date: 5/1/2018

Department: City Clerk

Amount & Source of Funding
Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

Fiscal Note:
Prior Council Action: N/A

City Council Goal: [Please select goal from dropdown menu below]
Choose an item.
Choose an item.
Choose an item.

Comprehensive Plan Element(s): [Please select the Plan element(s) and Goal # from dropdown menu below]

☐ Economic Development - Choose an item.
☐ Environment & Resource Protection - Choose an item.
☐ Land Use - Choose an item.
☐ Neighborhoods & Housing - Choose an item.
☐ Parks, Public Spaces & Facilities - Choose an item.
☐ Transportation - Choose an item.
☒ Not Applicable

Master Plan: [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]
Choose an item.
Background Information:

Cemetery Commission is seeking an appointment to fill one vacancy

Applicants include:
   a) Patsy Pohl
   b) Michelle Donnelly

This term is set to expire February 28, 2019

The San Marcos Commission on Children and Youth is seeking an appointment to fill the following role:

Greater San Marcos Partnership (GSMP) Representative

The applicant is Chris Duran.

This term is set to expire February 28, 2019.

Applications have been sent to Council for review.

Council Committee, Board/Commission Action:

N/A

Alternatives:

Click or tap here to enter text.

Recommendation:

Appoint Members to fill the specified roles.