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.

PRESENTATIONS

1. Receive a Staff presentation and hold discussion regarding the Historic Resources Survey Project Scope, and provide direction to Staff.

6:00 PM

V. 30 Minute Citizen Comment Period

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.

2. Consider approval, by motion, of the following meeting Minutes:
   A) September 27, 2017 - Code SMTX Workshop Meeting Minutes
   B) September 29, 2017 - Packet Meeting Workshop Minutes
   C) October 2, 2017 - Regular Meeting Minutes

3. Consider approval of Ordinance 2017-57, on the second of two readings, amending
Section 2.370.25 of the San Marcos City Code to amend the meeting schedule of the San Marcos Youth Commission; including procedural provisions; and providing an effective date.

4. Consider approval of Resolution 2017-154R, approving a Resolution by the Board of Directors of the Alliance Regional Water Authority and approving other related matters.

5. Consider approval of Resolution 2017-155R, approving the purchase of seven R-Mag Circuit Breakers (part number MB11136LLMH5SBL4) and one R-Mag Circuit Breaker (part number MB11236VVMH5SBL4) for the Public Services Department-Electric Utilities Division from Wesco Distribution, Inc. through the Texas Cooperative Purchasing Network Contract #R142106 for Maintenance, Repair, and Operations ("MRO") Supplies and related services in the total amount of $136,002.00; authorizing the City Manager or his designee to execute the appropriate purchasing documents on behalf of the City; and declaring an effective date.

6. Consider approval of Resolution 2017-156R, approving the annual renewal of the Maximo License with IBM under DIR-SD-2108 in the amount of $52,812.20; authorizing the City Manager to execute the appropriate documents related to the renewal of this agreement; and declaring an effective date.

7. Consider approval of Resolution 2017-157R, approving the annual renewal of the Microsoft Enterprise Agreement with SHI under DIR-SDD-2503 for software licenses in the amount of $269,324.50; authorizing the City Manager to execute the appropriate documents related to the renewal of this agreement; and declaring an effective date.

8. Consider approval of Resolution 2017-158R, approving a contract between the City and Hays County for the City’s provision of Library Services to residents of Hays County; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.

9. Consider approval of Resolution 2017-159R, adopting the U.S. Conference of Mayor’s Compact to Combat Hate, Extremism, and Bigotry; and declaring an effective date.

PUBLIC HEARINGS - 7:00 PM

10. 7:00PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2017-58, amending Chapter 4, Article 3 of the Land Development Code, Subpart B, and Section 1.5.4 of the San Marcos Smartcode, Subpart C, of the City Code, by adding requirements for the City Council’s approval of a Conditional Use Permit or a Warrant for Purpose Built Student Housing, including the requirement that, as a condition of the approval, the lease offered to a student shall incorporate provisions ensuring that, when a rental unit is unavailable for occupancy as of the first day of the lease term, the landlord will provide temporary alternate housing or allow the student to terminate the lease without penalty; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2017-58, on the first of two readings.

11. 7:00PM Receive a Staff presentation and hold a Public Hearing to receive comments for
or against Resolution 2017-160R approving Substantial Amendment No. 4 to the Community Development Block Grant-Disaster Recovery (CDBG-DR) Action Plan to include an additional allocation of CDBG-DR funding as published in the August 7, 2017 Federal Register in the amount of $8,714,000 for a total of $33,794,000 in CDBG-DR funding; approving the allocation of the use of CDBG-DR funding to projects and activities; authorizing the City Manager 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 2017-160R.

NON-CONSENT AGENDA

12. Consider approval of Ordinance 2017-56, on the first of two readings, 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.

13. Consider the appointment of an ad hoc Extraterritorial Jurisdiction (ETJ) member to the Impact Fee Advisory Committee, and provide direction to Staff.

14. Discuss and consider an appointment to fill two vacancies on the San Marcos Youth Commission, and provide direction to Staff.

15. Hold discussion regarding the transfer of City Council compensation funds out of the General Fund to another City fund, 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.

POSTED ON WEDNESDAY, OCTOBER 11, 2017 @ 3:00PM

JAMIE LEE CASE, 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: Receive a Staff presentation and hold discussion regarding the Historic Resources Survey Project Scope, and provide direction to Staff.

Meeting date: October 17, 2017

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Community Wellness / Strengthen the Middle Class

COMPREHENSIVE PLAN ELEMENT(s): N/A

BACKGROUND:
The Historic Preservation Commission (HPC) directed Staff to begin the process to expand two local historic districts, the Lindsey-Rogers and Hopkins Street districts, in February 2017. In July 2017, City Council voted to postpone the process until after updating the City’s historic resource survey. Information on historic resources within the City are currently contained in multiple documents and are over 20 years old.

During the September and October HPC meetings, the Commission received presentations from Staff and provided direction on scope deliverables as well as the proposed boundaries for a survey. This survey is proposed to include both Intensive and Reconnaissance areas. The document attached outlines potential scope deliverables and the map attached illustrates the proposed scope boundaries.

A bulletin on the guidelines for local surveys published by the National Park Service explains that common practice as well as the Secretary of the Interior distinguish between two levels of survey: reconnaissance and intensive. A reconnaissance level survey can be thought of as a “once over lightly” inspection of an area that is most useful for characterizing its resources in general and developing a basis for deciding how to organize and orient more detailed survey efforts. An intensive survey is the close and careful look at the area being surveyed involving detailed background research, inspection and documentation of all historic properties in the field. Intensive surveys are designed to identify precisely and completely all historic resources in the area. It is important to note that because a property is surveyed does not mean that it is required to be in a district or designated as a landmark. The underlying reason for undertaking a survey is to gather the information needed to plan for future, proactive historic preservation efforts. Council action is required for any District or
Landmark designation.

Staff is requesting direction from City Council on the next steps for completing a Historic Resource Survey.
**Scope Deliverables**

The following items were discussed and approved as scope deliverables by the HPC:

- **Evaluation and update of all existing surveys**
  - Currently, information on historic resources in the City are contained in multiple documents, all of which are over 20 years old. In 1992, as part of a Texas Historical Commission (THC) Certified Local Grant (CLG). San Antonio Street, Belvin Street and Downtown were resurveyed; Belvin Street, San Antonio Street, and Downtown were all local districts when they were resurveyed.
  - In 1996, the Dunbar and East Guadalupe Neighborhoods were surveyed and in 1997, the Heritage Neighborhood was surveyed. Using information from these surveys, the City designated the Dunbar, Lindsey-Rogers, Burleson Street, and Hopkins Street Districts.

- **New survey information compiled into one comprehensive database**
  - All structures surveyed will have a completed Texas Historical Commission Survey Form. These forms include information on the property type, whether the structure has any current designations (e.g. on National Register of Historic Places, Registered Texas Historic Landmark, etc.), the current and historic use of the structure, and photographic information. There will be a GIS component to the new survey.

- **Survey Plan**
  - A survey plan will ensure a clear, consistent, and fair approach in how Districts are delineated and how Landmarks are identified. It will include a plan for future updates to the survey as well as recommendations for possible local expansions & potential landmarks along with identifying areas that would be better served by inclusion in a demolition delay overlay. By implementing recommendations from the survey plan, historic preservation efforts become more predictable and proactive leading to the increase in effectiveness of future surveys.

- **Final Report**
  - Typically, in this report, the historic context of the City is discussed. In addition to that, it will contain the details about the process and methodology for the survey project and include the survey results. The results will include a determination of contributing or non-contributing status for each property surveyed. This is something that is lacking in the current surveys. The inventory table, maps, and public outreach information will be contained in the appendices of this report.

- **Public Outreach Component**
  - Education of the public is critical to the success of this project. Working with the consultant to aide in developing, coordinating and presenting at a series of public meetings will help to answer any concerns the public has regarding historic preservation efforts. Gathering input from the public is an especially important goal for future historic preservation endeavors.
CITY COUNCIL MEETING

Tuesday, October 17, 2017
Background

- **February 2017** – HPC directed Staff to begin process to expand the Lindsey-Rogers and the Hopkins Street Historic Districts

- **July 2017** – Council voted to postpone the expansion process until an updated historic resources survey has been completed

- **August 2017** – Historic Resources Survey scope begun
Scope Deliverables

• Evaluation and update of all existing surveys

• New survey information compiled into one comprehensive database

• Survey Plan with recommendations for new or expanded Districts and Landmark designations

• Final report detailing process, methodology, and inventory

• Public outreach component including public meetings
Survey Proposal

Two levels of survey

- **Reconnaissance**
  - A “once over lightly”
  - Most useful for characterizing an areas resources in general
  - Basis for future efforts

- **Intensive**
  - Close and careful
  - Involves detailed background research, inspection and documentation in the field
  - Identifies precisely and completely all historic resources in the area

❖ Council action is required for District or Landmark designation
Historic Resource Survey Proposal

NOTE: Properties surveyed are not required to be included in a District or designated as a Landmark.
Timeline

Fall 2017
- Submit THC Certified Local Gov’t Grant
- Submit RFP

Winter 2017/2018
- Award Contract
- Kick-off Project

Spring 2018
- Draft Historic Resources Survey Report (*including survey results*)

Summer 2018
- Adopt Historic Resources Survey Report
Questions, Discussion, and Direction
AGENDA CAPTION:
Consider approval, by motion, of the following meeting Minutes:
A) September 27, 2017 - Code SMTX Workshop Meeting Minutes
B) September 29, 2017 - Packet Meeting Workshop Minutes
C) October 2, 2017 - Regular Meeting Minutes

Meeting date: October 17, 2017

Department: City Clerk

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: N/A

COMPREHENSIVE PLAN ELEMENT(s): N/A

BACKGROUND:
The following minutes are attached for review:
A) September 27, 2017 - Code SMTX Workshop Meeting Minutes
B) September 29, 2017 - Packet Meeting Workshop Minutes
C) October 2, 2017 - Regular Meeting Minutes
I. Call To Order

With a quorum present, the packet meeting workshop of the San Marcos City Council was called to order by Mayor Thomaides at 12:05 p.m. Friday, September 29, 2017 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Council Member Gregson was ill this afternoon.

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

Absent: 1 - Council Member Scott Gregson

1. Consider Staff briefing and Council Member discussion and questions regarding items on the agenda for October 2, 2017 Regular City Council Meeting, to wit Items (1-19).

PRESENTATIONS

1. Presentation from Dr. Thomas Longoria regarding “Texas College Town Poverty in Comparative Perspective”.

CONSENT AGENDA

2. Meeting Minutes:
   A) September 15, 2017 - Packet Meeting Workshop Minutes
   B) September 19, 2017 - Regular Meeting Minutes

3. Ordinance 2017-55, on the second of two readings, amending the City’s 2016-2017 Fiscal Year Budget to include expenditures in the total sum of $25,000.00 from State Seized Asset Funds to provide matching funds for a grant received from the Office of the Governor, Criminal Justice Division to fund the conversion of the Police Department’s records management system from UCR summary data crime reporting to the National Incident-Based Reporting System (NIBRS); and providing an effective date.

4. Resolution 2017-147R, awarding a contract to Interstate Electric, LLC for pump and
motor repair services for the City’s Water/Wastewater Utilities Department; authorizing
the Purchasing Manager to execute purchasing documents on behalf of the City in an
amount estimated at $160,000 for Fiscal Year 2017 and $165,000 for Fiscal Year 2018;
and declaring an effective date.

5. Resolution 2017-148R, approving an Interlocal Agreement between the City of San
Marcos and the San Marcos Consolidated Independent School District for the City’s
provision of Police Officers to the School District to serve as School Resource Officers;
authorizing the City Manager or his designee to execute this agreement on behalf of the
City; and declaring an effective date.

6. Resolution 2017-149R, approving the extension of the contract with McCamant
Consulting, LLC for the provision of professional services related to wholesale power and
utilities; authorizing the Purchasing Manager to execute the appropriate documents
related to this contract extension on behalf of the City and declaring an effective date.

7. Resolution 2017-150R, approving a license agreement with NABI, LLC that allows
Signage and Landscaping Improvements for the future Rancho Meat Market at 2745
Hunter Road to encroach into a public utility easement; authorizing the City Manager to
execute the license agreement on behalf of the City; and declaring an effective date.

8. Resolution 2017-151R, approving an agreement with Pidworks, LLC for Public
Improvement District Formation and Administrative Services in connection with the
Whisper Public Improvement District; authorizing the City Manager to execute the
agreement on behalf of the City; and declaring an effective date.

9. Resolution 2017-152R, rejecting a bid received in response to an invitation for bids for
the Craddock Avenue Medians Improvements Project (IFB 217-397); and declaring an
effective date.

NON-CONSENT AGENDA

10. Ordinance 2017-56, 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.

11. Ordinance 2017-57, amending Section 2.370.25 of the San Marcos City Code to
amend the meeting schedule of the San Marcos Youth Commission; including procedural
provisions; and providing an effective date.

12. Resolution 2017-135R, approving an Assignment and Assumption of License
Agreement that assigns the license agreement with Carma Paso Robles, LLC for
subdivision gateway improvements for the Kissing Tree Subdivision in the City’s
right-of-way to the homeowners’ association for the subdivision; authorizing the City Manager to execute said agreement on behalf of the City; and declaring an effective date.

13. Resolution 2017-153R, approving a real estate sales contract for the purchase of approximately 20.61 acres of land located at 2240 Clovis Barker Road from James K. Wise Real Estate, Inc. at a price of $2,468,872, plus associated closing costs, for a future Public Services and Community Services Maintenance Facility; authorizing the City Manager to execute all closing documents necessary to complete such purchase; and declaring an effective date.

14. Appointment to fill a vacancy on the following boards:
   A) Arts Commission
   B) Parks and Recreation Board
   C) Zoning Board of Adjustments

15. Appointments to the La Cima subcommittee.

16. Discussion regarding regulation of the distribution and display of magazines and other printed materials.

17. Discussion regarding the US Conference of Mayor’s Climate Action Agreement and Friendly City Initiative.

18. Discussion regarding the establishment of an Innovation District in Downtown San Marcos.

19. Discussion regarding the US Conference of Mayor’s Compact to Combat Hate.

The City Council held discussion and asked questions regarding items on the agenda for the October 2, 2017 Regular City Council Meeting, to wit Items (1-19).

Item # 5 Council asked that a discussion be brought back regarding conversation and projects with San Marcos Consolidated Independent School District.

Item #9 Council asked for an update on the funding of the Craddock median. Staff will provide this information prior to the next Regular City Council meeting.

Item #11 Council asked when an update would be provided on what the Youth Commission has accomplished this year and what they are working on now. Staff will provide an update at an upcoming meeting.

Item #15 Council asked about the financial incentives for residential
developments. Staff will provide this documentation prior to the next Regular City Council meeting.

No other direction was provided.

III. Question and Answer Session with Press and Public.

None.

IV. Adjournment.

Mayor Thomaides adjourned the packet meeting of the San Marcos City Council at 1:16 p.m.

POSTED ON TUESDAY, SEPTEMBER 26, 2017 at 12:00PM

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

Notice of Assistance at the Public Meetings

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City of San Marcos

Meeting Minutes - Draft
City Council

Monday, October 2, 2017
5:30 PM
City Council Chambers

630 E. Hopkins

I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Thomaides at 5:31 p.m. Monday, October 2, 2017 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666

II. Roll Call

Council Member Mihalkanin arrived after roll at 5:52 p.m.

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

III. Invocation

A moment of silence was observed.

IV. Pledges Of Allegiance - United States And Texas

Council Member Derrick led the assembly in the Pledges of Allegiance.

PRESENTATIONS

1. Receive a presentation from Dr. Thomas Longoria: “Understanding Poverty in San Marcos, Texas: A Comparative Perspective.”

Dr. Thomas Longoria provided a presentation “Understanding Poverty in San Marcos, Texas: A Comparative Perspective.” Dr. Longoria stated the overall poverty rate in San Marcos was 37% in the 2010-2015 estimate, and when students are removed from the census data, this number falls to 23%. The non-student poverty rate in San Marcos is increasing, as it is in other large metro area suburbs. When students are taken out of the overall poverty statistics, only 1 census tract meets the definition of concentrated poverty, compared to 4 when students are included in the poverty statistics. He noted that San Marcos is becoming less distinctive as a college town compared to other major Texas college towns.
6:00 PM

V. 30 Minute Citizen Comment Period

Lisa Marie Coppoletta, stated that she would be requesting meetings with all Council Members regarding the mold and split screen issues. She spoke about her issues with the recent meeting that she had with the city manager about the split screen. She stated that she was told by Kristi Wyatt and Jared Miller that all citizen comments would have split screen, whether this was citizen comment or Public Hearings. She feels we have lost transparency with the new communication equipment that was installed. She referenced that the City Manager told her that all reasonable accommodations would be made. She says that if it becomes an ADA this will need to be discussed.

Roland Saucedo, addressed the Council about his concerns about the Residential Parking Program (RPP). He stated that a citizen was ticketed for parking in front of his house because he didn’t know the program had begun. He stated there is still no RPP coordinator, but he understands due to the strain on City Staff. He mentioned the Ordinance should state that anytime a citizen requests a petition staff would be responsible for posting a sign that notifies the neighborhood about this petition. He stated that this may need to go before the Neighborhood Commission for them to work on.

CONSENT AGENDA

A motion was made by Council Member Mihalkanin, seconded by Council Member Gregson, to approve the consent agenda. The motion carried by the following vote:

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

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:
   A) September 15, 2017 - Packet Meeting Workshop Minutes
   B) September 19, 2017 - Regular Meeting Minutes

3. Consider approval of Ordinance 2017-55, on the second of two readings, amending the City’s 2016-2017 Fiscal Year Budget to include expenditures in the total sum of $25,000.00 from State Seized Asset Funds to provide matching funds for a grant received from the Office of the Governor, Criminal Justice Division to fund the conversion of the Police Department’s records management system from UCR summary data crime reporting to the National Incident-Based Reporting System (NIBRS); and providing an effective date.
4. Consider approval of Resolution 2017-147R awarding a contract to Interstate Electric, LLC for Pump and Motor Repair Services for the City Water/Wastewater Utilities Department; authorizing the Purchasing Manager to execute purchasing documents on behalf of the City in an amount estimated at $165,000 for Fiscal Year 2018; and declaring an effective date.

5. Consider approval of Resolution 2017-148R, approving an Interlocal Agreement between the City of San Marcos and the San Marcos Consolidated Independent School District for the City’s provision of Police Officers to the School District to serve as School Resource Officers; authorizing the City Manager or his designee to execute this agreement on behalf of the City; and declaring an effective date.

6. Consider approval of Resolution 2017-149R, approving the extension of the contract with McCamant Consulting, LLC for the provision of professional services related to wholesale power and utilities; authorizing the Purchasing Manager to execute the appropriate documents related to this contract extension on behalf of the City and declaring an effective date.

7. Consider approval of Resolution 2017-150R, approving a license agreement with NABI, LLC that allows Signage and Landscaping Improvements for Rancho Meat Market d/b/a Poco Loco at 2745 Hunter Road at 2745 Hunter Road to encroach into a public utility easement; authorizing the City Manager to execute the license agreement on behalf of the City; and declaring an effective date.

8. Consider approval of Resolution 2017-151R, approving an agreement with PIDWorks, LLC for Public Improvement District Formation and Administrative Services in connection with the Whisper Public Improvement District; authorizing the City Manager to execute the agreement on behalf of the City; and declaring an effective date.

9. Consider approval of Resolution 2017-152R rejecting a bid received in response to an invitation for bids for the Craddock Avenue Medians Improvements Project (IFB 217-397); and declaring an effective date.

**NON-CONSENT AGENDA**

10. Consider approval of Ordinance 2017-57, amending Section 2.370.25 of the San Marcos City Code to amend the meeting schedule of the San Marcos Youth Commission; including procedural provisions; and providing an effective date.

    A motion was made by Mayor Pro-Tem Hughson, seconded by Council Member Mihalkanin, to approve Ordinance 2017-57, on the first of two readings. The motion carried by the following vote:

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

    Against: 0
11. Consider approval of Resolution 2017-135R, approving an Assignment and Assumption of License Agreement that assigns the license agreement with Carma Paso Robles, LLC for subdivision gateway improvements for the Kissing Tree Subdivision in the City's right-of-way to the homeowners' association for the subdivision; authorizing the City Manager to execute said agreement on behalf of the City; and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Prewitt, seconded by Council Member Gregson, to approve Resolution 2017-135R. The motion carried by the following vote:

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

Against: 0

12. Consider approval of Resolution 2017-153R, approving a real estate sales contract for the purchase of approximately 20.61 acres of land located at 2240 Clovis Barker Road from James K. Wise Real Estate, Inc. at a price of $2,468,872, plus associated closing costs, for a future Public Services and Community Services Maintenance Facility; authorizing the City Manager to execute all closing documents necessary to complete such purchase; and declaring an effective date.

A motion was made by Mayor Thomaides, seconded by Council Member Derrick, to approve Resolution 2017-153R. The motion carried by the following vote:

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

Against: 0

13. Discuss and consider an appointment to fill a vacancy on the following boards, and provide direction to staff:
   A) Arts Commission
   B) Parks and Recreation Board
   C) Zoning Board of Adjustments

The following applicants were nominated for consideration to serve on the Arts Commission:
Anita Collins - Nominated by Council Member Mihalkanin
Stephanie Nelson - Nominated by Mayor Thomaides

Following a roll call vote Anita Collins received a majority of council votes and was appointed to the Arts Commission.

Eric Gilbertson was nominated by Mayor Pro Tem Hughson for consideration
to serve on the Parks Board.

Following a roll call vote Eric Gilbertson was unanimously approved for appointment to the Parks Board.

Wayman Jones was nominated by Council Member Gregson for consideration to serve on the Zoning Board or Adjustments.

Following a roll call vote Wayman Jones was unanimously approved for appointment to the Zoning Board of Adjustments.

14. Discuss and consider appointments to the La Cima subcommittee, and provide direction to Staff.

Council directed Staff to move forward with a subcommittee for discussion purposes. Council Member Prewitt also asked that this committee abide by Resolution 2015-165R, and if not the committee would need to present their reasons to council.

A motion was made by Council Member Gregson, seconded by Council Member Derrick, to approve the appointment of Council Member Prewitt, Council Member Gregson, and Council Member Derrick to serve on this subcommittee. The motion carried by the following vote:

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

   Against:  0

15. Hold discussion regarding regulation of the distribution and display of magazines and other printed materials in the public right-of-way, and provide direction to Staff.

Kevin Burke, provided the Council with a presentation regarding the distribution and display of magazines and other printed materials.

In March 2017, staff conducted an inventory of existing magazine racks located in the public right-of-way within the Main Street District boundary. The existing racks were found to be in varying states of disrepair.

The distribution of newspapers and magazines is a form of speech protected by the First Amendment; however, cities may establish reasonable time, place and manner restrictions on this form of speech. The City does not have any such restrictions in place at this time.
Mr. Burke provided some options to the City Council to consider and stated City Council may regulate by Ordinance, the location, permitting, maintenance, abandonment and number of allowed magazine racks. Staff provided the recommendation to develop a draft Ordinance for Council consideration. The options provided for Council to consider include the following:

#1 Vendor supplies its own rack and its own style.
#2 Vendor supplies its own rack that meets specifications established by the City.
#3 City supplies a display "corral" within which separate vendor racks are contained.
#4 City supplies a consolidated rack from which all vendors must display their publications.

Council provided direction to move forward with Option #4 in the downtown area and Option #2 outside the downtown area.

16. Hold discussion regarding the US Conference of Mayor’s Climate Action Agreement and Friendly City Initiative, and provide direction to Staff.

Mayor Thomaides provided the Council with a presentation regarding the US Conference of Mayor’s Climate Action Agreement and Friendly City Initiative.

Council provided direction to move forward with this Initiative. A future discussion related to next steps, scope, community involvement will be placed on an upcoming agenda. City Manager Bert Lumbreras would like to have council define what the community group role will be and what level of expertise is expected from this group. Staff will reach out to other large entities in our community, such as the San Marcos Consolidated Independent School District, Texas State, and Hays County and see what steps they are currently taking.

17. Hold discussion regarding the establishment of an Innovation District in Downtown San Marcos, and provide direction to Staff.

Mayor Thomaides provided the Council with a presentation regarding the establishment of an Innovation District in Downtown San Marcos.

After council discussion consensus is to move forward with this initiative. An Innovation District Advisory Board was discussed that would consists of not only the larger entities within our community but also the private sector, business incubators, co-working space, and Gary Job Corp. Staff will do some initial assessments and will come back to get additional direction from
18. Hold discussion regarding the US Conference of Mayor’s Compact to Combat Hate; and provide direction to Staff.

Mayor Thomaides provided the Council with an overview regarding the US Conference of Mayor’s Compact to Combat Hate. Police Chief Chase Stapp provided the Council with the 6 pillars of 21st Century policing. He provided that they have taken steps to enhance the level of trust between our officers and citizens. He stated they host community outreach events and forums around town, coffee with a cop open forum, and every day outreach. He stated that they plan to print targeted brochures and host 3 or 4 very large outreach events where they cook for folks and people will come out and share what concerns they have on their minds. He stated that the extra $50,000 that the Council recently approved in the budget will go to fund those events. Council Member Derrick mentioned having an anti-discrimination policy related to funding being provided to sub-recipients. Council provided direction to move forward with bringing back a resolution on a future agenda.

VI. Question and Answer Session with Press and Public.

None.

VII. Adjournment.

Mayor Thomaides adjourned the regular meeting of the San Marcos City Council at 8:25 p.m.

Jamie Lee Case, TRMC, City Clerk

John Thomaides, Mayor
AGENDA CAPTION:
Consider approval of Ordinance 2017-57, on the second of two readings, amending Section 2.370.25 of the San Marcos City Code to amend the meeting schedule of the San Marcos Youth Commission; including procedural provisions; and providing an effective date.

Meeting date:  October 2, 2017 - 1st Reading
               October 17, 2017 - 2nd Reading

Department: Parks and Recreation

Funds Required:
Account Number:
Funds Available:
Account Name:

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s): [add the Plan elements and Goal # and Objective(s)]

BACKGROUND:
The Youth Commission is currently set to meet monthly. After the first few meetings, the Youth Commission decided it would be best to meet at least 8 times a year, as it is harder to meet in the summer and during holidays.

The Commission is asking that Council approve the amendment to the current Ordinance.
ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING SECTION 2.370.25 OF THE SAN MARCOS CITY CODE TO AMEND THE MEETING SCHEDULE OF THE SAN MARCOS YOUTH COMMISSION; INCLUDING PROCEDURAL PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. Section 2.370.25 of the San Marcos City Code is hereby amended to read as follows (Deleted text is indicated by strikethroughs and added text is indicated by underlining.):

Sec. 2.075. Duties; meetings; reports.

(a) The commission shall have the following duties and functions:

(1) Represent the voices of youth in the community and advise elected officials and other policy makers about issues affecting and of interest to youth.

(2) Provide leadership and represent the diverse needs and goals of young people in the community.

(3) Serve as a bridge to connect the work of public entities including the city, county, the school district, and the university to support young people more effectively.

(4) Provide a structure for youth to learn the value of civic participation and thereby create lifelong invested citizens.

(5) Offer policy-making recommendations on issues affecting youth.

(6) Provide outreach to San Marcos teens and inform them of existing opportunities and listen to suggestions on how the community can improve youth-oriented efforts.

(7) Provide input on community issues coming before the city council and school board.

(8) Identify youth issues that need community attention.

(9) Perform tasks and work on projects of the San Marcos Commission on Children and Youth.
(b) The commission shall meet monthly a minimum of eight times per year.

(c) The commission may make recommendations at any time but shall deliver at least one report annually to the governing bodies of the city, county, school district, and university govern.

SECTION 2. In codifying the changes authorized by this ordinance, paragraphs, sections, and subsections may be renumbered and reformatted as appropriate to be consistent with the numbering and formatting of the San Marcos City Code.

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 after its adoption on second reading.

PASSED AND APPROVED on first reading on October 2, 2017.

PASSED, APPROVED AND ADOPTED on second reading on October 17, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk

Approved:

Michael J. Cosentino
City Attorney
Consider approval of Resolution 2017-154R, approving a Resolution by the Board of Directors of the Alliance Regional Water Authority and approving other related matters.

Meeting date: October 17, 2017

Department: Public Services - Water/Wastewater (Tom Taggart - Executive Director)

Funds Required:
Account Number:
Funds Available:
Account Name:

CITY COUNCIL GOAL:
Maintain and improve the City’s infrastructure.

COMPREHENSIVE PLAN ELEMENT(s): Parks, Public Spaces and Facilities - Well maintained public facilities

BACKGROUND:
In agreement with Section 4.01(d) of the Regional Water Supply Contract effective January 15, 2008, prior to adoption of a bond resolution for the City’s contribution for the design, construction, and equipment of Phase 1B Improvements of the Authority Water Supply Project, the Alliance Regional Water Authority (ARWA) will present the Bond Resolution to the City for review and approval.

The City has requested the Alliance Regional Water Authority issue a series of contract revenue bonds for the City in an amount not to exceed $11,450,000 to finance the City’s contribution to the design, construction, and equipment for the Phase 1B Improvements of the Regional Water Supply Project.

In accordance the Regional Water Supply Contract, the ARWA is seeking approval from the City Council of a resolution by the Board of Directors authorizing the issuance of contract revenue bonds for the City.
RESOLUTION NO. ______

RESOLUTION APPROVING A RESOLUTION BY THE BOARD OF DIRECTORS
OF THE ALLIANCE REGIONAL WATER AUTHORITY AND
APPROVING OTHER RELATED MATTERS

CITY OF SAN MARCOS §
COUNTIES OF HAYS, CALDWELL AND GUADALUPE §
STATE OF TEXAS §

WHEREAS, the City of San Marcos, Texas (the "City") is a sponsor of the Alliance Regional Water Authority (the "Authority"); and

WHEREAS, the City has approved and executed the Regional Water Supply Contract dated and effective January 15, 2008 for the financing, construction and operation of the Authority Regional Water Supply Project as amended by the First Amendment to the Contract (collectively, the "Contract"); and

WHEREAS, any capitalized terms not otherwise defined herein shall have the meaning given in the Contract; and

WHEREAS, the City has previously requested the Authority issue a separate series of contract revenue bonds for the City in an amount not to exceed $11,450,000 entitled "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas), Series 2017C" (the "Bonds") to finance the City’s contribution to the design, construction and equipment of the Phase 1B Improvements of the Authority Water Supply Project pursuant to the Contract which Bonds are payable from the Bond Payments to be made to the Authority under and pursuant to the Contract; and

WHEREAS, pursuant to Section 4.01(d) of the Contract, prior to adoption of a bond resolution for the City by the Authority's Board of Directors, a substantially final copy of the Bond Resolution for the City and the sale and offering documents, if any, shall be presented to the City for review and approval; and

WHEREAS, a substantially final copy of the Authority's Bond Resolution, both as defined in the Contract, authorizing the Bonds for the City's share of the Phase 1B Improvements of the Authority Water Supply Project has been presented to the City for review and approval; and

WHEREAS, the Bonds are being sold to the Texas Water Development Board and there are no sale and offering documents, as defined in the Contract, to be presented to the City for review and approval; however, a private placement memorandum has been submitted to the City for review and approval; and

WHEREAS, it is hereby further officially found and determined that public notice of the time, place, and purpose of this meeting was given, all as required by Texas Government Code, Chapter 551.
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. RECITALS. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. Capitalized terms used herein shall have the meaning assigned in the preamble hereof or the Contract, unless otherwise defined.

SECTION 2. BOND RESOLUTION. The Bond Resolution in substantially the form attached hereto as Exhibit "A" is hereby approved with such changes as approved by the City's Authorized Representative.

SECTION 3. CERTIFICATES. The City's Authorized Representative is hereby authorized to sign the Approval Certificate attached hereto as Exhibit "B" reflecting the final interest rates and terms of the Bonds. The Mayor, City Clerk, City Manager and Assistant City Manager are each authorized to sign all certificates and are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution and the issuance of the Bonds as requested by the City.

SECTION 4. ANNUAL AUDIT. Within 180 days after the City's fiscal year end, the City shall provide the Authority a copy of its annual audit.

SECTION 5. IMMEDIATE EFFECT. This Resolution shall take effect immediately from and after its adoption in accordance with the law.
PASSED AND APPROVED this October 17, 2017.

________________________________________
John Thomaides, Mayor
City of San Marcos, Texas

ATTEST:

____________________________________
Jamie Lee Case, City Clerk
EXHIBIT "A"

BOND RESOLUTION
EXHIBIT "B"

APPROVAL CERTIFICATE

The undersigned Authorized Representative of the City of San Marcos, Texas pursuant to the resolution (the "Resolution") authorizing the issuance of obligations designated as "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas) Series 2017C," (the "Bonds") hereby approves the following terms of the Bonds:

(i) the total principal amount of the Bonds of $11,450,000;

(ii) the purchase price for the Bonds is $11,450,000 (representing the original principal amount of the Bonds);

(iii) the interest rates and maturity schedule for the Bonds are as set forth below:

<table>
<thead>
<tr>
<th>Year of Stated Maturity (August 15)</th>
<th>Principal Amounts ($)</th>
<th>Interest Rates (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>$540,000</td>
<td>0.630%</td>
</tr>
<tr>
<td>2020</td>
<td>545,000</td>
<td>0.700</td>
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<td>2021</td>
<td>550,000</td>
<td>0.780</td>
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<td>2036</td>
<td>690,000</td>
<td>2.260</td>
</tr>
<tr>
<td>2037</td>
<td>705,000</td>
<td>2.290</td>
</tr>
</tbody>
</table>

(iv) the Bonds are subject to redemption as set forth below:

The Bonds stated to mature on and after August 15, 2028 may be redeemed prior to their Stated Maturities, at the option of the Authority, in inverse order of maturity on February 15, 2028, or on any date thereafter, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written
notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If this Bond is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.
EXECUTED AND DELIVERED THIS 17th day of October, 2017.

CITY OF SAN MARCOS, TEXAS

____________________________________
Title: _______________________________

ARWA\2017C: ResApprovingResSanMarcos
RESOLUTION NO. ________

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF SAN MARCOS, TEXAS), SERIES 2017C; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SUCH BONDS

ADOPTED OCTOBER 25, 2017
RESOLUTION NO. __________

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF SAN MARCOS, TEXAS), SERIES 2017C; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS

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A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF SAN MARCOS, TEXAS), SERIES 2017C; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS

WHEREAS, pursuant to Chapter 572, as amended, Texas Local Government Code, the Hays Caldwell Public Utility Agency (the "Agency") as a constituted authority and instrumentality and political subdivision of the State of Texas (the "State"), was created by the Cities of Buda ("Buda"), San Marcos ("San Marcos") and Kyle, Texas ("Kyle"), each Texas home rule municipalities, and the Canyon Regional Water Authority ("Canyon Regional"), a conservation and reclamation district and political subdivision of the State created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended (collectively, the "Sponsors" or singularly, a "Sponsor"); and

WHEREAS, the Agency and the Sponsors have entered into a "Regional Water Supply Contract" dated as of January 15, 2008, as amended by Amendment No. 1 and as may be further amended (collectively, the "Contract") pursuant to which the Agency has agreed to design, finance, construct, own, acquire, maintain and operate a water supply project in a manner that will allow the Agency to deliver water to the Sponsors on a regional basis and under which each of the Sponsors agree to pay their share of the project costs and to make payments to or on behalf of the Agency in amounts sufficient to meet all of the Agency's obligations under the Contract including those relating to a Sponsor's bonds issued to finance and refinance a Sponsor's share of the Project Costs and to own, operate and maintain the Project; and

WHEREAS, at the request of Canyon Regional and Kyle, the Agency issued two series of bonds on November 19, 2015 for such Sponsors share of the Phase 1A Project entitled: $3,960,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – Canyon Regional Water Authority), Series 2015A and $3,530,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2015B (collectively, the "Outstanding Bonds"); and

WHEREAS, on June 15, 2017, by special act of the 85th Legislature, SB 1198 (the "Act") the Agency was converted to the Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district to accomplish the purposes set forth in the Act and of Article XVI, Section 59, Texas Constitution; and

WHEREAS, by operation of the law pursuant to the Act, the Authority assumed all assets, liabilities, bonds, notes and other obligations of the Agency including all obligations pursuant to the Outstanding Bonds and the Contract; and
WHEREAS, pursuant to the Act, the Authority is empowered to, among other powers, acquire, own, construct, operate, repair, improve, maintain or extend inside or outside its boundaries water improvements, facilities, plants, pipelines, equipment and appliances for the treatment and transportation of water and to deliver this water to the Sponsors; and

WHEREAS, the Act also authorizes the Authority acting through its Board of Directors (the "Board") to issue revenue bonds to finance such water projects, payable solely from the revenues derived from payments to be made to the Authority by one or more of the respective Sponsors for which a series of bonds are issued for the purpose of defraying such Sponsor's share of the cost of financing, acquiring, and constructing water supply facilities including the Phase 1B Improvements Water Supply Project (as hereinafter defined); and

WHEREAS, the Authority expects to issue four series of such revenue bonds for Canyon Regional, Kyle, San Marcos and Buda, respectively, to finance their share of the Phase 1B Improvements Project costs, with each series payable from and secured solely by payments made by Canyon Regional, Kyle, San Marcos and Buda, respectively, under the Contract; and

WHEREAS, San Marcos has requested that the Authority issue a separate series of revenue bonds in the aggregate principal amount of $11,450,000 pursuant to the Contract to finance their share of the Phase 1B Improvements Water Supply Project costs (the "Bonds"); and

WHEREAS, this Resolution constitutes a Bond Resolution as that term is defined in the Contract; and

WHEREAS, the principal of the Bonds and the interest thereon are and shall be solely payable from and secured by a lien on and pledge of the portion of the Annual Payments designated as "Bond Payments" to be made by San Marcos pursuant to the Contract in amounts sufficient to pay and redeem, and provide for the payment of the principal of, premium, if any, and interest on the Bonds, when due, and the fees and expenses of the Paying Agent/Registrar and Escrow Agent for the Bonds, all as required by this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY THAT:

Section 1. DEFINITIONS. In addition to the definitions set forth in the preamble of this Resolution, the terms used in this Resolution (except as may be otherwise indicated in the FORM OF BOND) and not otherwise defined herein shall have the meanings given in Exhibit "A" to this Resolution attached hereto and made a part hereof.

Section 2. AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS. (a) Amount and Designation. The Authority's bonds issued pursuant to this Resolution shall be entitled "ALLIANCE REGIONAL WATER AUTHORITY CONTRACT REVENUE BONDS (Regional Water Supply Project – City of San Marcos, Texas), Series 2017C" and are hereby authorized to be issued in the aggregate principal amount of $11,450,000.
(b) **Purpose.** The Bonds are to be issued for the following purposes: (i) FOR DESIGNING, CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE PROJECT INCLUDING BUT NOT LIMITED TO THE PAYMENT OF PROJECT COSTS FOR THE PHASE IB IMPROVEMENTS WATER SUPPLY PROJECT AND (ii) PAYING THE COSTS OF ISSUANCE OF THE BONDS.

**Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF BONDS.** (a) **Terms of Bonds.** The Bonds shall initially be issued, sold, and delivered hereunder as fully registered bonds, without interest coupons, numbered consecutively from R-1 upward (except the initial Bond delivered to the Attorney General of the State which shall be numbered T-1), dated the date of delivery, payable to the respective initial Registered Owners thereof in an Authorized Denomination, serially on August 15, in the years and in the principal amounts set forth below:

<table>
<thead>
<tr>
<th>Year of Stated Maturity (August 15)</th>
<th>Principal Amounts ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>$540,000</td>
</tr>
<tr>
<td>2020</td>
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<tr>
<td>2036</td>
<td>690,000</td>
</tr>
<tr>
<td>2037</td>
<td>705,000</td>
</tr>
</tbody>
</table>

(b) **In General.** The Bonds (i) may and shall be redeemed prior to the respective scheduled maturity dates, (ii) may be assigned and transferred, (iii) may be exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, and the principal of and interest on the Bonds shall be payable, all as provided, and in the manner required or indicated, in the FORM OF BOND set forth in **Exhibit "B"** to this Resolution.
Section 4. INTEREST. The Bonds shall bear interest, calculated on the basis of a 360-day year composed of twelve 30-day months, from their date of delivery at the rates set forth below:

<table>
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<tr>
<th>Year of Stated Maturity (August 15)</th>
<th>Interest Rates (%)</th>
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Interest shall be payable to the Registered Owner of any such Bond in the manner provided and on the dates stated in the FORM OF BOND set forth in Exhibit "B" to this Resolution.

Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION. (a) Paying Agent/Registrar. BOKF, NA is hereby appointed the Paying Agent/Registrar for the Bonds. The Authority Representative is authorized to enter into and carry out a Paying Agent/Registrar Agreement with the Paying Agent/Registrar with respect to the Bonds in substantially the form and substance presented to the Board in connection with the approval of this Resolution with such changes as are acceptable to the Authority Representative.

(b) Registration Books. The Board shall keep or cause to be kept at a designated corporate trust office of the Paying Agent/Registrar in Dallas, Texas (the "Designated Trust Office") the Registration Books and the Board hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, exchanges, and replacements under such reasonable regulations as the Board and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, exchanges, and replacements as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered
Owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein
provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar
in writing of the address to which payments shall be mailed, and such interest payments shall not
be mailed unless such notice has been given. The Board shall have the right to inspect the
Registration Books at the Designated Trust Office of the Paying Agent/Registrar during regular
business hours, but otherwise the Paying Agent/Registrar shall keep the Registration Books
confidential and, unless otherwise required by law, shall not permit their inspection by any other
entity. A copy of the Registration Books shall be maintained in the State.

(c) Ownership of Bonds. The entity or person in whose name any Bond shall be
registered in the Registration Books at any time shall be deemed and treated as the absolute
owner thereof for all purposes of this Resolution, whether or not such Bond shall be overdue,
and, to the extent permitted by law, the Board and the Paying Agent/Registrar shall not be
affected by any notice to the contrary; and payment of, or on account of, the principal of,
premium, if any, and interest on any such Bond shall be made only to such Registered Owner.
All such payments shall be valid and effectual to satisfy and discharge the liability upon such
Bond to the extent of the sum or sums so paid.

(d) Payment of Bonds and Interest. The Paying Agent/Registrar shall further act as the
paying agent for paying the principal of, premium, if any, and interest on the Bonds, all as
provided in this Resolution. The Paying Agent/Registrar shall keep proper records of all
payments made by the Board and the Paying Agent/Registrar with respect to the Bonds. So long
as the Purchaser owns the Bonds, the Paying Agent/Registrar shall provide a copy to the
Purchaser and its designated trustee of all receipts documenting debt service payments.

(e) Authentication. The Bonds initially issued and delivered pursuant to this Resolution
shall be authenticated by the Paying Agent/Registrar by execution of the Paying
Agent/Registrar's Authentication Certificate unless they have been approved by the Attorney
General of the State and registered by the Comptroller of Public Accounts of the State, and on
each substitute Bond issued in exchange for any Bond or Bonds issued under this Resolution the
Paying Agent/Registrar shall execute the Paying Agent/Registrar's Authentication Certificate (the
"Authentication Certificate"). The Authentication Certificate shall be in the form set forth in the
FORM OF BOND in Exhibit "B" attached hereto.

(f) Transfer, Exchange, or Replacement. Each Bond issued and delivered pursuant to
this Resolution, to the extent of the unpaid or unredeemed principal amount thereof, may, upon
surrender of such Bond at the Designated Trust Office of the Paying Agent/Registrar, together
with a written request therefor duly executed by the Registered Owner or the assignee or
assignees thereof, or its or their duly authorized attorneys or representatives, with guarantee of
signatures satisfactory to the Paying Agent/Registrar, may, at the option of the Registered Owner
or such assignee or assignees, as appropriate, be exchanged for fully registered Bonds, without
interest coupons, in the appropriate form prescribed in the FORM OF BOND set forth in Exhibit
"B" to this Resolution, in any Authorized Denomination (subject to the requirement hereinafter
stated that each substitute Bond shall be of the same Series and have a single stated maturity
date), as requested in writing by such Registered Owner or such assignee or assignees, in an
aggregate principal amount equal to the unpaid or unredeemed principal amount of any Bond or Bonds so surrendered, and payable to the appropriate Registered Owner, assignee, or assignees, as the case may be. If a portion of any Bond shall be redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds having the same Series designation and maturity date, bearing interest at the same rate, and payable in the same manner, in Authorized Denominations at the request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon surrender thereof for cancellation. If any Bond or portion thereof is assigned and transferred, each Bond issued in exchange therefor shall have the same Series designation and maturity date and bear interest at the same rate and payable in the same manner as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying Agent/Registrar shall exchange or replace Bonds as provided herein, and each fully registered Bond delivered in exchange for or replacement of any Bond or portion thereof as permitted or required by any provision of this Resolution shall constitute one of the Bonds for all purposes of this Resolution, and may again be exchanged or replaced. On each substitute Bond issued in exchange for or replacement of any Bond or Bonds issued under this Resolution there shall be printed an Authentication Certificate, in the form set forth in Exhibit "B" to this Resolution. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Authentication Certificate, and, except as provided in (e) above, no such Bond shall be deemed to be issued or outstanding unless the Authentication Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all Bonds surrendered for transfer, exchange, or replacement. No additional orders or resolutions need be passed or adopted by the Board or any other body or person so as to accomplish the foregoing transfer, exchange, or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be in typed or printed form as determined by the Authority Representative. Pursuant to Subtitle D, Texas Government Code and particularly Section 1201.063, thereof, the duty of transfer, exchange, or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Authentication Certificate, the exchanged or replaced Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which were originally issued pursuant to this Resolution. The Board shall pay the Paying Agent/Registrar's standard or customary fees and charges, if any, for transferring, and exchanging any Bond or any portion thereof, but the one requesting any such transfer and exchange shall pay any taxes or governmental charges required to be paid with respect thereto as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, exchange, or replacement of Bonds or any portion thereof (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following interest payment date, or (ii) with respect to any Bond or portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. To the extent possible, any new Bond issued in an exchange, replacement, or transfer of a Bond will be delivered to the Registered Owner or assignee of the Registered Owner not more than three business days after the receipt of the Bonds to be canceled and the written request as described above.
(g) **Substitute Paying Agent/Registrar.** The Board covenants with the Registered Owners of the Bonds that at all times while the Bonds are outstanding the Board will provide a competent and legally qualified bank, trust company, financial institution, or other Authority to act as and perform the services of Paying Agent/Registrar for the Bonds under this Resolution, and that the Paying Agent/Registrar will be one entity. The Board reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than ninety (90) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Board covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other Authority to act as Paying Agent/Registrar under this Resolution. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Board. Upon any change in the Paying Agent/Registrar, the Board promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Resolution, and a certified copy of this Resolution shall be delivered to each Paying Agent/Registrar.

(h) **Notice of Redemption.** Each notice of redemption required in the FORM OF BOND shall contain a description of the Bonds to be redeemed including the complete name of the Bonds, the Series, the date of issue, the interest rate or rates, the maturity date, the CUSIP number, a reference to the certificate numbers and the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Bonds may be redeemed, including a contact person and telephone number. All redemption payments made by the Paying Agent/Registrar to the registered owners of the Bonds shall include a CUSIP number relating to each amount paid to such Registered Owner.

(i) **Book-Entry-Only System.** The Bonds issued in exchange for the Bonds initially issued as provided in Section 5(l) shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co. as nominee of DTC and except as provided in subsection (f) hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Authority and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Authority and the Paying Agent/Registrar shall
have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Resolution to the contrary, but to the extent permitted by law, the Authority and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bonds, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, and interest pursuant to the Resolution. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Resolution with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

(j) **Successor Securities Depository; Transfer Outside Book-Entry-Only System.** In the event the Purchaser no longer owns the Bonds or the Purchaser consents to such action, the Authority may determine to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bonds, the Authority shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owner transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

(k) **Payments to Cede & Co.** Notwithstanding any other provision of this Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and
all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Blanket Representation of the Authority to DTC.

(l) **Initial Bond.** The Bonds herein authorized shall be initially issued as fully registered bonds, being one bond for each maturity in the denomination of the applicable principal amount and the initial Bond shall be registered in the name of the Registered Owner. The initial Bond shall be the Bond submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Registered Owner. Immediately after the delivery of the initial Bond, the Paying Agent/Registrar shall cancel the initial Bond delivered hereunder and exchange therefor Bonds in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC and except as provided in Section 5(j), all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

**Section 6. FORM OF BOND.** The form of the Bond, including the form of the Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State, with respect to the Bonds initially issued and delivered pursuant to this Resolution, shall be, respectively, substantially as set forth in Exhibit "B", with such appropriate variations, omissions, or insertions as are permitted or required by this Resolution.

**Section 7. PLEDGE OF BOND PAYMENTS.** (a) **Pledge.** The Authority hereby covenants and agrees that the Bond Payments are hereby irrevocably pledged to the payment and security of the Bonds Similarly Secured including the establishment and maintenance of the special funds or accounts created and established on the books and records of the Authority for the payment and security thereof, all as hereinafter provided; and it is hereby resolved that the Bonds Similarly Secured, and the interest thereon, shall constitute a lien on and pledge of the Bond Payments and be valid and binding without any physical delivery thereof or further act by the Authority, and the lien created hereby on the Bond Payments for the payment and security of the Bonds Similarly Secured shall be prior in right and claim as to any other indebtedness, liability, or obligation of the Authority or the Project payable pursuant to the terms of the Contract. The Authority shall deposit the Bond Payments, as collected and received, into the Debt Service Fund (hereinafter defined), to be utilized pursuant to Section 9 hereof to pay the Bonds.

(b) **Perfection of Pledge.** Chapter 1208, as amended, Texas Government Code, applies to the issuance of the Bonds Similarly Secured and the lien on and pledge of Bond Payments granted by the Authority under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while the Bonds Similarly Secured are outstanding and unpaid such that the pledge of the Bond Payments granted by the Authority is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the Registered Owners of the Bonds Similarly Secured the perfection of the security interest in this pledge, the Board agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9,
as amended, Texas Business & Commerce Code and enable a filing to perfect the security interest in this pledge to occur.

Section 8. RATES AND CHARGES. For the benefit of the Registered Owners of the Bonds Similarly Secured and in addition to all provisions and covenants in the laws of the State and in this Resolution, the Contract between the Authority and the City expressly stipulates and agrees, while any of the Bonds Similarly Secured are Outstanding, the City will fix and collect such rates and charges for services to be supplied by the City's respective systems that will produce gross revenues at all times during the term of the Contract in an amount equal to pay all of the expenses of operation and maintenance of the respective systems including Annual Payments and Bond Payments under the Contract and all other amounts required by the laws and the provisions of the ordinances or resolutions authorizing the City's Outstanding System Obligations now or hereafter outstanding payable, in whole or in part, from the net revenues of the City's Systems, including the amounts required to pay all principal of and interest on the City's outstanding System bonds and other obligations. The Authority hereby expressly stipulates and agrees that it will take all appropriate action to enforce such terms of the Contract while any of the Bonds Similarly Secured are Outstanding.

The Registered Owner shall never have the right to demand payment for the Bonds out of any funds raised or to be raised from taxation by the City, other Participating Entities or the Authority.

Section 9. DEBT SERVICE FUND AND PROJECT FUND. (a) Debt Service Fund. For purposes of providing funds to pay the principal of and interest on the Bonds Similarly Secured as the same become due and payable, the Authority agrees to maintain, at a Depository, a separate and special fund or account to be created and known as the "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas), Debt Service Fund" (the "Debt Service Fund"). The Authority covenants that there shall be deposited into the Debt Service Fund prior to each principal and interest payment date solely from the available Bond Payments an amount equal to one hundred per cent (100%) of the amount required to fully pay the interest on and the principal of the Bonds Similarly Secured then falling due and payable.

Any accrued interest received from the Purchaser of the Bonds shall be deposited into the subaccount of the Debt Service Fund. In addition, any surplus proceeds from the sale of the Bonds, including investment income therefrom, not expended for authorized purposes shall be deposited into the Debt Service Fund, and such amounts (i.e., accrued and investment interest) so deposited shall reduce the sum otherwise required to be deposited in the Debt Service Fund from Bond Payments.

(b) Project Fund. The Authority hereby creates and establishes and shall maintain on the books and records of the Authority a separate fund or account to be entitled the "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas), Project Fund" for use by the Authority for payment of the City's share of the Project Costs. The Authority shall deposit the net proceeds from the sale of the
Bonds into the Project Fund as provided in this Resolution. Funds in the Project Fund shall be requisitioned for payment of the City's share of Project Costs in accordance with a requisition in substantially the form set forth in Exhibit "C" attached hereto with such changes as approved by the Authority Representative. Upon payment of all Project Costs, any moneys remaining on deposit in the Project Fund shall be transferred to the Debt Service Fund.

In the event the Project is not completed for any reason contemplated in the Contract or otherwise or any proceeds from the Bonds are not used for completion of the Project for any reason, any Bond proceeds and earnings therein not used for completion of the Project shall be utilized to pay principal and/or interest on the Bonds so as to reduce the Bond Payment as set forth below.

Any surplus proceeds, including the investment earnings derived from the investment of moneys on deposit in the Project Fund, from the Bonds remaining on deposit in the Project Fund after completing the Project and upon the completion of the final accounting as described in Section 37(c) hereof, shall be transferred to the Debt Service Fund to redeem, in inverse order of maturity, the Bonds owned by Purchaser, unless the Executive Administrator of Purchaser approves the use of such surplus proceeds to pay eligible Project Costs by funding projects that are a part of the State Water Plan.

Section 10. DEFICIENCIES - EXCESS BOND PAYMENTS. (a) Deficiencies. If on any occasion there shall not be sufficient Bond Payments to make the required deposits into the Debt Service Fund, then such deficiency shall be cured as soon as possible from the next available unallocated Bond Payments and such payments shall be in addition to the amounts required to be paid into these Funds or accounts during such month or months.

(b) Excess Bond Payments Subject to making the required deposits to the Debt Service Fund when and as required by this Resolution or any resolution authorizing the issuance of Additional Bonds, any excess Bond Payments may be used by the Authority for any lawful purpose including, but not limited to, the redemption of any Bonds Similarly Secured.

Section 11. PAYMENT OF BONDS. While any of the Bonds Similarly Secured are Outstanding, the Executive Director of the Authority or other authorized Authority official, shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Debt Service Fund, amounts sufficient to fully pay and discharge promptly each installment of interest on and principal of the Bonds Similarly Secured as such installment accrues or matures; such transfer of funds must be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the Business Day next preceding the date a debt service payment is due on the Bonds Similarly Secured.

Section 12. INVESTMENTS. Funds held in any fund or account created, established, or maintained pursuant to this Resolution shall, at the option of the Authority, be invested in time deposits, certificates of deposit, guaranteed investment contracts, or similar contracting arrangements and/or as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, or any other law, and secured (to the extent
not insured by the Federal Deposit Insurance Corporation) to the fullest extent required by the Public Funds Collateral Act, as amended, Chapter 2257, Texas Government Code. All interest and income derived from deposits and investments in any fund shall immediately be credited to, and any losses debited from, the fund from which such funds were derived. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

Section 13. ISSUANCE OF ADDITIONAL BONDS. In addition to the right to issue bonds of inferior lien as authorized by the laws of this State, the Authority reserves the right hereafter to issue Additional Bonds. The Additional Bonds, when issued, shall be payable from and secured by a lien on and pledge of the Bond Payments in the same manner and to the same extent as the Bonds and the Bonds Similarly Secured, and shall in all respects be of equal dignity. The Additional Bonds may be issued in one or more Series provided, however, that no Additional Bonds, shall be issued unless and until the following conditions have been met:

(i) Except for a refunding to cure a default, the Authority is not then in default as to any covenant, condition or obligation prescribed in the resolutions authorizing the issuance of the Bonds Similarly Secured or the Contract (including any amendment or supplement thereto) and the funds under the resolution authorizing the same contains the amounts then required to be therein;

(ii) The City shall have approved the resolution(s) authorizing the issuance of the Additional Bonds as to form and content and acknowledged that the payment of principal of and interest on such Additional Bonds is payable, in whole or in part, from the Bond Payments to be made to the Authority under and pursuant to the Contract;

(iii) The resolution authorizing the issuance of the Additional Bonds provides for deposits to be made to the Debt Service Fund in amounts sufficient to pay the principal of and interest on such Additional Bonds as the same become due; and

(iv) Based upon an opinion of legal counsel to the Authority that there is a legal, valid and binding contract then in effect pursuant to which the City is obligated to make payments to the Authority during each fiscal year (including periods when services of the Project may not be available to such contracting parties and others) in such amounts as shall be necessary to provide to the Authority sufficient funds to pay when due all principal and interest on all Bonds and Additional Bonds to be outstanding after the issuance of the proposed Additional Bonds.

The Bonds Similarly Secured may be refunded (pursuant to any law then available) upon such terms and conditions as the Board of the Authority may deem to be in the best interest of the Authority.

Section 14. SPECIAL PROJECT BONDS. The Authority further reserves the right to issue bonds in one or more installments for the purchase, construction, improvement, extension, replacement, enlargement or repair of utility facilities necessary under a contract or contracts with persons, corporations, municipal corporations, political subdivisions, or entities including the City, such bonds to be payable from and secured by the proceeds of such contract or contracts
(other than the Contract). The Authority further reserves the right to refund such bonds and secure the payment of the debt service requirements on the refunding bonds in the same manner or as otherwise permitted by the laws of the State.

Section 15. MAINTENANCE OF PROJECT - INSURANCE. The Authority covenants, agrees, and affirms its covenants that while the Bonds Similarly Secured remain outstanding it will maintain and operate the Project with all possible efficiency and maintain casualty and other insurance on the properties of the Project and its operations of a kind and in such amounts customarily carried by municipal corporations in the State engaged in a similar type of business (which may include an adequate program of self insurance); and that it will faithfully and punctually perform all duties with reference to the Project required by the laws of the State. All money received from losses under such insurance policies, other than public liability policies, shall be retained for the benefit of the Registered Owners of the Bonds Similarly Secured until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses of the Project. Nothing in this Resolution shall be construed as: (i) requiring the Authority to expend any funds which are derived from sources other than the operation of the Project but nothing herein shall be construed as preventing the Authority from doing so or (ii) requiring the purchase of insurance until Facilities are constructed.

Section 16. RECORDS AND ACCOUNTS - ANNUAL AUDIT. The Authority covenants, agrees, and affirms its covenants that so long as any of the Bonds Similarly Secured remain outstanding, it will keep and maintain separate and complete records and accounts pertaining to the operations of the Project in which complete and correct entries shall be made of all transactions relating thereto as provided by applicable law. The Registered Owners of any Bonds or any duly authorized agent or agents of such Registered Owners shall have the right to inspect the Project and all properties comprising the same. The Authority further agrees that following (and in no event later than six (6) months after) the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Expenses incurred in making the annual audit of the operations of the Project are to be regarded as Operation and Maintenance Expenses of the Project.

Section 17. SALE OR ENCUMBRANCE OF SYSTEM. While any Bonds remain Outstanding, the Authority will not sell, dispose of or further encumber the Project or any substantial part thereof; provided, however, that this provision shall not prevent the Authority from (i) pledging the Bond Payments and Funds to Additional Bonds or Special Project Bonds as set forth in Sections 13 and 14 of this Resolution or (ii) disposing of any part of the Project which is being replaced or is deemed by the Authority to be obsolete, worn out, surplus or no longer needed for the proper operation of the Project. Any agreement pursuant to which the Authority contracts with a person, corporation, municipal corporation or political subdivision to operate the Project or to lease and/or operate all or part of the Project shall not be considered as an
encumbrance of the Project; provided, however, no such agreement shall impair the pledge and lien on the Bond Payments and Funds.

Section 18. SPECIAL COVENANTS. The Authority further covenants and agrees that: (a) **Title.** The Authority lawfully owns or will own and is or will be lawfully possessed of the lands, easements or other property rights (including leasehold interests) upon which its Project is and will be located, and has or will purchase good and indefeasible estate in such lands in fee simple, or has or will lawfully obtain any necessary easements or has or will lawfully obtain property rights (including leasehold interests to operate the Project, and it warrants that it has or will obtain and will defend, the title to all the aforesaid lands, easements and property rights for the benefit of the Registered Owners of the Bonds against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Bond Payments to the payment of the Bonds Similarly Secured, in the manner prescribed herein, and that it has lawfully exercised such rights.

(b) **Liens.** The Authority will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or its Project, and it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge upon its Project, provided, however, that no such tax, assessment, or charge, and that no such claims which might be or other lien or charge, shall be required to be paid while the validity of the same shall be contested in good faith by the Authority.

(c) **Performance.** The Authority will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in the resolutions authorizing the issuance of Bonds Similarly Secured, and in each and every Bond Similarly Secured and pay from the Bond Payments the principal of and interest on every Bond Similarly Secured on the dates and in the places and manner prescribed in such resolutions and Bonds Similarly Secured; and that it will, at the times and in the manner prescribed, deposit or cause to be deposited from the Bond Payments the amounts required to be deposited into the Debt Service Fund; and the Registered Owner of the Bonds Similarly Secured may require the Authority, its officials, agents, and employees to carry out, respect, or enforce the covenants and obligations of this Resolution or any resolution authorizing the issuance of Bonds Similarly Secured including, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against the Authority, its officials, agents, and employees.

(d) **Legal Authority.** The Authority is duly authorized under the laws of the State to issue the Bonds Similarly Secured; that all action on its part for the authorization and issuance of the Bonds Similarly Secured has been duly and effectively taken, and the Bonds Similarly Secured in the hands of the Registered Owners thereof are and will be valid and enforceable special obligations of the Authority in accordance with their terms payable solely from the Bond Payments.

(e) **Budget.** The Authority will prepare, adopt, and place into effect an annual budget (the "Annual Budget") for Operation and Maintenance Expenses of the Project for each Fiscal
Year, including in each Annual Budget such items as are customarily and reasonably contained in a utility project budget under generally accepted accounting procedures and shall deliver such budget at least 90 days prior to adoption for review and comment by Canyon Regional.

(f) **Permits.** The Authority will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to the Project and which have been obtained from any governmental Authority; and the Authority has or will obtain and keep in full force and effect all franchises, permits, authorizations, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of the Project.

**Section 19. LIMITED OBLIGATIONS OF THE AUTHORITY.** The Bonds Similarly Secured are limited, special obligations of the Authority payable from and equally and ratably secured solely by a lien on and pledge of the Bond Payments, and the Registered Owners thereof shall never have the right to demand payment of the principal or interest on the Bonds Similarly Secured from any funds raised or to be raised through taxation by the City or the Authority.

**Section 20. DEFAULT AND REMEDIES.** (a) **Events of Default.** Each of the following occurrences or events for the purpose of this Resolution is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Authority, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Resolution, and, if such default is capable of cure, the continuation thereof for a period of sixty (60) days after notice of such default is given by any Registered Owner to the Authority; or

(iii) a default by the City under the Contract.

(b) **Remedies for Event of Default.**

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees thereof, may proceed against the Authority, or any official, officer or employee of the Authority in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Resolution, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies. The Registered Owners are third party beneficiaries to the
Contract with the ability to enforce the provisions of the Contract for such period that a default exists under the Contract.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then Outstanding.

(iii) Notwithstanding anything in this Resolution to the contrary, so long as the Purchaser continue to hold the Bonds, the Purchaser may exercise all remedies available to it in law or equity and any provision in this Resolution or the Bonds that restricts or limits the Purchaser's full exercise of these remedies shall be of no force and effect.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Resolution, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Resolution.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Resolution, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Resolution do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Authority or the Board.

(iv) None of the members of the Board, nor any other official or officer, agent, or employee of the Authority, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Resolution, or because of any Event of Default or alleged Event of Default under this Resolution.

Section 21. AMENDMENT OF RESOLUTION. (a) Amendments Without Consent. This Resolution and the rights and obligations of the Board and of the Registered Owners of the Bonds may be modified or amended at any time without notice to or the consent of any Registered Owner of the Bonds or any Bond similarly secured, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the Board contained in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the Board in this Resolution;
(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Resolution, upon receipt by the Board of an opinion of counsel, that the same is needed for such purpose, and will more clearly express the intent of this Resolution;

(iii) To supplement the security for the Bonds, replace or provide additional Credit Agreement, or change the form of the Bonds or make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds;

(iv) To make any changes or amendments requested by any bond rating Authority then rating or requested to rate the Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds;

(v) To make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Outstanding Bonds; or

(vi) To assign the Contract to a trustee.

(b) Amendments With Consent. Subject to the other provisions of this Resolution, the Registered Owners of Outstanding Bonds aggregating 51% in Outstanding Principal Amount shall have the right from time to time to approve any amendment, other than amendments described in Subsection (a) of this Section, to this Resolution which may be deemed necessary or desirable by the Board; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the Outstanding Bonds, the amendment of the terms and conditions in this Resolution or in the Bonds so as to:

(1) Make any change in the maturity of the Outstanding Bonds;

(2) Reduce the rate of interest borne by the Outstanding Bonds;

(3) Reduce the amount of the principal payable on the Outstanding Bonds;

(4) Modify the terms of payment of principal of or interest on the Outstanding Bonds, or impose any conditions with respect to such payment;

(5) Affect the rights of the owners of less than all Bonds then Outstanding; or

(6) Change the minimum percentage of the Outstanding Principal Amount of Bonds necessary for consent to such amendment.

(c) Notice. (i) If at any time the Board shall desire to amend this Resolution other than pursuant to (a) above, the Board shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York or
the State including in the Texas Bond Reporter once during each calendar week for at least two (2) successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of Bonds. Such publication is not required, however, if the Board gives or causes to be given such notice in writing to each Registered Owner of Bonds.

(d) **Receipt of Consents.** Whenever at any time not less than thirty (30) days, and within one (1) year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the Board shall receive an instrument or instruments executed by all of the owners or the owners of at least 51% in Outstanding Principal Amount of Bonds, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the Board may adopt the amendatory resolution in substantially the same form.

(e) **Effect of Amendments.** Upon the adoption by the Board of any resolution to amend this Resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the Board and all the owners of then Outstanding Bonds and all future Bonds shall thereafter be determined, exercised, and enforced under the resolution and this Resolution, as amended.

(f) **Consent Irrevocable.** Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar and the Board, but such revocation shall not be effective if the owners of 51% in Outstanding Principal Amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.

(g) **Ownership.** For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the Registration Books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

**Section 22. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS.** (a) **Covenants.** The Authority covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Authority covenants as follows:
(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Authority, with respect to such private business use, do not, under the terms of this Order or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of $5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and
(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings);

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code;

(9) to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the applicable Treasury Regulations promulgated thereunder; and

(10) the Authority will not acquire any of the Purchaser source series bonds in an amount related to the amount of Bonds acquired by the Purchaser.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the Authority for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The Authority understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations. It is the understanding of the Authority that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the Authority will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the Authority agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Authority hereby authorizes and directs the Executive
Director to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Authority, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The Authority covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2 of this Resolution (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The Authority recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Authority recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The Authority agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the Authority shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The Authority covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Authority of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the Authority may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Authority shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Reimbursement. This Resolution is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

Section 23. RESOLUTION TO CONSTITUTE A CONTRACT; EQUAL SECURITY. In consideration of the acceptance of the Bonds, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Board and the Registered Owners from time to time of the Bonds and the pledge made in this Resolution by the Board and the covenants and agreements set forth in this Resolution to be performed by the Board shall be for the equal and proportionate benefit, security, and protection of all Registered Owners, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized
hereunder over any of the others by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Resolution.

Section 24. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements, or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Bonds issued hereunder.

Section 25. PAYMENT AND PERFORMANCE ON BUSINESS DAYS. Except as provided to the contrary in the FORM OF BOND, whenever under the terms of this Resolution or the Bonds, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Bonds, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

Section 26. LIMITATION OF BENEFITS WITH RESPECT TO THE RESOLUTION. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Resolution or the Bonds is intended or should be construed to confer upon or give to any person other than the Board, the Registered Owners, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Resolution or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Resolution and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Board, the Registered Owners, and the Paying Agent/Registrar as herein and therein provided.

Section 27. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS AND PREAMBLE. The Authority Representative is hereby authorized to have control of the Bonds issued hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and approval by the Attorney General of the State. The Authority Representative is hereby authorized, to the extent deemed necessary or advisable thereby, in the discretion thereof, to request that the Attorney General approve the Bonds as permitted by Chapter 1202, Texas Government Code, in which case the Authority Representative also is authorized to request the Comptroller of Public Accounts register the Bonds, and to cause an appropriate legend reflecting such approval and registration to appear on the Bonds and the substitute Bonds. The approving legal opinion of the Board's Bond Counsel and the assigned CUSIP numbers may, at the option of the Board, be printed on the Bonds and on any Bonds issued and delivered in exchange or replacement of any Bond, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the
Bonds. The preamble to this Resolution is hereby adopted and made a part of this Resolution for all purposes.

Section 28. CONTINUING DISCLOSURE UNDERTAKING. (a) Annual Reports. The Authority shall provide annually to the MSRB, (1) within six months after the end of each fiscal year of the Authority, financial and operating data of the general type, being the information of the type described in Exhibit "D" hereto including financial statements of the Authority if audited financial statements of the Authority are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the Authority, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the generally accepted accounting principles for governmental units, or such other accounting principles as the Authority may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the official statement, and (ii) audited, if the Authority commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the Authority shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

If the Authority changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Board otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(b) Event Notices. The Authority shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

A. Principal and interest payment delinquencies;

B. Non-payment related defaults, if material within the meaning of the federal securities laws;

C. Unscheduled draws on debt service reserves reflecting financial difficulties;

D. Unscheduled draws on credit enhancements reflecting financial difficulties;
E. Substitution of credit or liquidity providers, or their failure to perform;

F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other events affecting the tax status of the Bonds;

G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws;

H. Bond calls, if material within the meaning of the federal securities laws and tender offers;

I. Defeasances;

J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;

K. Rating changes;

L. Bankruptcy, insolvency, receivership or similar event of the Board;

M. The consummation of a merger, consolidation, or acquisition involving the Board or the sale of all or substantially all of the assets of the Board, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and

N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

The Authority shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the Board to provide financial information or operating data in accordance with subsection (a) of this Section by the time required by such subsection. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The Board shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Board remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the Board in any event will give notice of any deposit made in accordance with Section 30 of this Resolution that causes the Bonds no longer to be outstanding.
The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Board undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Board's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Board does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Authority in observing or performing its obligations under this Section shall comprise a breach of or default under this Resolution for purposes of any other provision of this Resolution.

Should the Rule be amended to obligate the Board to make filings with or provide notices to entities other than the MSRB, the Board hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Board under federal and state securities laws.

The provisions of this Section may be amended by the Board from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Board, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the outstanding Bonds consents to such amendment or (b) a person that is unaffiliated with the Board (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the holders and beneficial owners of the Bonds. If the Board so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of
any change in the type of financial information or operating data so provided. The Board may
also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or
repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that
such provisions of the Rule are invalid, but only if and to the extent that the provisions of this
sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the
primary offering of the Bonds.

Section 29. APPLICATION OF BOND PROCEEDS. (a) Proceeds from the sale of
the Bonds shall, promptly upon receipt thereof, be applied by the Authority Representative as
follows:

(i) accrued interest, if any, for the Bonds shall be deposited as provided in
Section 9(a);
(ii) an amount sufficient to accomplish the purposes of Section 2(b) shall be
deposited to the Project Fund; and
(iii) any proceeds from the sale of the Bonds remaining after the deposits
provided for in clauses (i) and (ii) above, shall be applied to pay expenses
arising in connection with the issuance of the Bonds.

Any sale proceeds of the Bonds remaining after making all deposits and payments
provided for above shall be applied to the payment of interest on the Bonds and deposited into
the Debt Service Fund.

Section 30. DEFEASANCE PROVISIONS. (a) Any Bond and the interest thereon
shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the
meaning of this Resolution, except to the extent provided in subsections (c) and (e) of this
Section, when payment of the principal of such Bond, plus interest thereon to the due date or
dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise)
either (i) shall have been made or caused to be made in accordance with the terms thereof
(including the giving of any required notice of redemption or the establishment of irrevocable
provisions for the giving of such notice) or (ii) shall have been provided for on or before such
due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an
eligible trust company or commercial bank for such payment (1) lawful money of the United
States of America sufficient to make such payment, (2) Defeasance Securities, certified by an
independent public accounting firm of national reputation to mature as to principal and interest in
such amounts and at such times as will ensure the availability, without reinvestment, of sufficient
money to provide for such payment and when proper arrangements have been made by the
Authority with the Paying Agent/Registrar or an eligible trust company or commercial bank for
the payment of its services until all Defeased Bonds shall have become due and payable or (3)
any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond
hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by,
payable from, or entitled to the benefits of, the Bond Payments as provided in this Resolution,
and such principal and interest shall be payable solely from such money or Defeasance
Securities.
(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Resolution. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the Authority also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the Authority.

(c) Notwithstanding any provision of any other Section of this Resolution which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the Authority shall make proper arrangements to provide and pay for such services as required by this Resolution.

(d) Notwithstanding anything elsewhere in this Resolution, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the Authority retains the right under State law to later call that Defeased Bond for redemption in accordance with the provisions of this Resolution, the Authority may call such Defeased Bond for redemption upon complying with the provisions of State law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

Section 31. SALE OF BONDS; USE OF PROCEEDS. (a) Sale to the Texas Water Development Board ("Purchaser"). That the Bonds are hereby sold to Purchaser for the price of par. The Bonds have been purchased by the Purchaser pursuant to its Resolution No. 17-079, adopted on July 20, 2017 ("Purchaser Resolution No. 17-079"). The Bonds initially delivered shall be registered in the name of the Texas Water Development Board. The Private Placement Memorandum prepared in connection with the sale of the Bonds to the Purchaser in substantially the form attached to this Resolution is approved. The Authority has determined, based upon the
advice provided by its financial advisors, that acceptance of the purchase price for the Bonds is on terms advantageous to, and in the best interests of, the Authority.

(b) **Notice from Purchaser of Sale of Bonds.** It is the intent of the parties to the sale of the Bonds that if Purchaser ever determines to sell all or a part of the Bonds, it shall notify the Authority at least 60 days prior to the sale of the Bonds of the decision to so sell the Bonds.

(c) **Proceeds.** The proceeds from the sale of the Bonds shall be used in the manner described in the letter of instructions executed by the Authority, or on behalf of the Authority by its financial advisor.

(d) **Payment by Wire Transfer.** Payment of amounts due and owing on the Bonds to the Purchaser shall be made by wire transfer, at no expense to the Purchaser, as provided in the FORM OF BOND.

(e) **Escrow Fund.** By agreeing to the purchase the Bonds, the Purchaser agrees that the Bond proceeds shall be deposited into the escrow fund established in the Escrow Agreement between the Authority and BOKF, NA.

(f) **Investment of Bond Proceeds.** Proceeds from the sale of the Bonds shall be held at a depository or other properly chartered and authorized institution in accordance with Chapter 2256, Texas Government Code, and Chapter 2257, Texas Government Code.

**Section 32. FURTHER PROCEDURES.** The Authority Representative and all other officers, employees, and agents of the Board, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and on behalf of the Board all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution, the Bonds, the sale and delivery of the Bonds and fixing all details in connection therewith. The Authority Representative is authorized to sign this Resolution.

**Section 33. REPEAL OF CONFLICTING RESOLUTIONS.** All resolutions and all parts of any resolutions which are in conflict or inconsistent with this Resolution are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

**Section 34. PUBLIC NOTICE.** It is hereby found and determined that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting at which this Resolution was adopted; that this Resolution would be introduced and considered for adoption at said meeting; and that said meeting was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

**Section 35. NO PERSONAL LIABILITY.** No covenant or agreement contained in the Bonds, this Resolution or any corollary instrument shall be deemed to be the covenant or
agreement of any member of the Board or any officer, agent, employee or representative of the Board in his individual capacity, and neither the directors, officers, agents, employees or representatives of the Board nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

Section 36. APPROVAL OF ESCROW AGREEMENT, PAYING AGENT/REGISTRAR AGREEMENT, BLANKET ISSUER LETTER OF REPRESENTATIONS WITH THE DEPOSITORY TRUST COMPANY AND CREDIT AGREEMENTS. (a) The Escrow Agreement by and between the Authority and BOKF, NA as Escrow Agent ("Escrow Agreement") in substantially the form and substance submitted to the Board is hereby approved, and the Authority Representative is hereby authorized to complete, amend, modify, and execute the Escrow Agreement, as necessary.

(b) The Paying Agent/Registrar Agreement by and between the Authority and BOKF, NA ("Paying Agent Agreement"), in substantially the form and substance submitted to the Board is hereby approved and the Authority Representative is hereby authorized and directed to complete, amend, modify, and execute the Paying Agent Agreement, as necessary.

(c) The Blanket Issuer Letter of Representations with the Depository Trust Company has been previously executed by the Authority Representative and is hereby authorized to be utilized in connection with the Bonds.

(d) To the extent permitted by law, the Authority reserves the right to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the Authority Representative that such Credit Agreements are in the best interest of the Authority given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in this Resolution. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) debt secured by a pledge of the Bond Payments on parity with the Bonds Similarly Secured (ii) debt secured by an inferior lien secured by a pledge of the Bond Payments subordinate to the Bonds Similarly Secured or (iii) partially parity and partially inferior lien.

Section 37. ADDITIONAL COVENANTS. In connection with the sale of the Bonds to the Purchaser, the Authority covenants as follows:

(a) Compliance with the Texas Water Development Board's Rules and Regulations. The Authority covenants to comply with the rules and regulations of the Purchaser, and to maintain insurance on the Project in such amount as may be required by Purchaser, as further addressed in subsection (h) of this Section.
(b) **Audits.** For so long as the State of Texas owns any of the Bonds, the Authority shall mail a copy of the audit required by this Resolution to the Purchaser. In addition, monthly operating statements for the Project shall be maintained by the Authority and made available, on request, to the Purchaser as long as the State of Texas owns any of the Bonds, and the monthly operating statement shall be in such detail as requested by the Development Fund Manager of the Purchaser until this requirement is waived thereby. The Authority shall also provide, or cause to be provided, a copy of the City's audit within 180 days after the City's fiscal year end.

(c) **Final Accounting.** Within 60 days of Project completion, the Authority shall render a final accounting to the Purchaser in reference to the total cost incurred by the Authority for the Project which were financed by the issuance of the Bonds, together with a copy of "as built" plans of such Project.

(d) **Defeasance.** Should the Authority exercise its right under this Resolution to effect the defeasance of the Bonds, the Authority agrees that it will provide the Purchaser with 30 days written notice of any such defeasance.

(e) **Segregation of Funds.** The Authority covenants that proceeds of the Bonds shall remain separate and distinct from other sources of funding from the date of the Purchaser commitment through costing and final disbursement.

(f) **Environmental Indemnity.** Proceeds from the Bonds shall not be used by the Authority when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. To the extent permitted by law, the Authority agrees to indemnify, hold harmless, and protect the Purchaser from any and all claims, causes of action, or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, and disposition of any contaminated sewage sludge, contaminated sediments, and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials, and employees as a result of activities relating to the project funded with proceeds of the Bonds.

(g) **Environmental Determination.** In connection with the Project financed with the Bonds, the Authority agrees to implement any environmental determination issued by the Executive Administrator of Purchaser to satisfy the environmental review requirements set forth in 31 Texas Administrative Code 371.

(h) **Insurance.** The Authority agrees that it will maintain insurance on the Project in an amount sufficient to protect Purchaser’s interest in the project financed with the proceeds of the Bonds. The Authority may self-insure in respect to satisfying this covenant.

(i) **No Purchase of Purchaser Bonds.** The Authority agrees that it, nor any related party to the Authority, will not purchase, as an investment or otherwise, bonds issued by Purchaser including, without limitation, bonds issued by Purchaser, the proceeds of which were used by Purchaser to purchase the Bonds.
(j) **Compliance with Federal Contracting Laws.** The Authority acknowledges that it has a legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises.

(k) **Compliance with State Contracting Laws.** The Authority acknowledges that it has a legal obligation to comply with any applicable requirements of State law relating to contracting with historically underutilized businesses and will report to the Purchaser the amounts of Project funds, if any, that are used to compensate historically underutilized businesses that work on the Project in accordance with 31 TAC § 363.1312.

**Section 38. APPROVAL CERTIFICATE.** Pursuant to Section 3.1 of the Contract, the City has authorized the execution of an approval certificate attached hereto as Exhibit "F" which evidences the approval of the terms and provisions of the Bonds as set forth herein by the City.

*The remainder of this page intentionally left blank.*
PASSED AND ADOPTED this October 25, 2017.

ALLIANCE REGIONAL WATER AUTHORITY

____________________________________
Authority Representative
EXHIBIT A

DEFINITIONS

As used in this Resolution, the following terms and expressions shall have the meanings set forth below, unless the text in this Resolution specifically indicates otherwise.

The term Additional Bonds shall mean the obligations issued in accordance with the terms and conditions prescribed in Section 13 hereof.

The term Annual Payments shall have the meaning given in each Contract.

The term Authorized Denominations shall mean shall mean the denomination of $5,000 or any integral multiple thereof.

The term Authority shall mean Alliance Regional Water Authority and any other public Authority succeeding to the powers, rights, privileges and functions of the Authority and, when appropriate, the Board of the Authority.

The term Authority Representative shall mean the Chair, Vice Chair or the Executive Director of the Authority or such other person authorized by the Board to act as an Authority Representative.

The term Average Annual Debt Service Requirements shall mean that average amount which, at the time of computation, will be required to pay the Debt Service Requirements on all outstanding Bonds Similarly Secured when due (either at Stated Maturity or mandatory redemption) and derived by dividing the total of such Debt Service Requirement by the number of Fiscal Years then remaining before Stated Maturity of such Bonds Similarly Secured. For purposes of this definition, a fractional period of a Fiscal Year shall be treated as an entire Fiscal Year. Capitalized interest payments provided from Bond proceeds shall be excluded in making the aforementioned computation.

The term Board shall mean the Board of Directors of the Authority.

The term Bond Payments shall mean the payments defined as “Bond Payments” within the Contract that the Authority expects to receive from the City of San Marcos, Texas pursuant to the terms of the Contract.

The term Bonds shall mean and include collectively the Bonds issued and delivered and all substitute Bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term Bond shall mean any of the Bonds.

The term Bonds Similarly Secured shall mean the Bonds issued pursuant to this Resolution and any Additional Bonds hereafter issued by the Authority or bonds issued to refund
any of the foregoing if issued in a manner that provides that the refunding bonds are payable from and equally and ratably secured by a lien on and pledge of the Bond Payments.

The term Business Day shall mean any day which is not a Saturday, Sunday, legal holiday, or a day on which banking institutions in The City of New York, New York or in the city where the Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

The term Certified Public Accountant shall mean an independent certified public accountant or firm of independent certified public accountants.

The term City shall mean the City of San Marcos, Texas.

The term City System shall mean and includes the existing combined waterworks and/or wastewater disposal system of the City, together with all future extensions, improvements, enlargements, and additions thereto, including, to the extent permitted by law, storm sewer and drainage and/or reclaimed water systems which are integrated with the waterworks or wastewater disposal system, and all replacements thereof. Provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term City System shall not include any waterworks or wastewater facilities which are declared by the City not to be a part of the City System, and which are hereafter acquired or constructed by the City with the proceeds from the issuance of "Special Facilities Bonds," which are hereby defined as being special revenue obligations of the City which are not secured by or payable from the net revenues of the City System, but which are secured by and are payable solely from special contract revenues, or payments received from the City or any other legal entity, or any combination thereof, in connection with such facilities; and such revenues or payments shall not be considered as or constitute gross revenues of the City System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such Special Facilities Bonds.

The term City Utility Bonds shall mean the bonds, notes or other obligations issued by the City secured by a lien on and pledge of the net revenues of the City System or any part thereof regardless of lien priority including such bonds, notes or other obligations now or hereafter outstanding.

The term Closing Date shall mean the date of physical delivery of the Initial Bond issued pursuant to this Resolution for the payment in full by the Purchaser.

The term Completion Date shall mean when the Facilities have been substantially complete, the date specified in a certificate of the Authority and Project Engineer that the Project is substantially completed and ready to be placed in service.

The term Contract shall mean the Regional Water Supply Contract dated as of January 9, 2008, together with amendments and supplements thereto including Amendment No. 1 (which by the term of such instrument is designated as a supplement or amendment to such Contract)
between the Authority and each Participating Entity, conformed copies of the Contract being attached hereto as Exhibit "E" for the purposes of identification.

The term *Credit Agreement* shall mean an Insurance Policy, a surety bond (including any supporting Insurance Agreement), a letter or line of credit or other type of enhancement issued in support of any Bonds or Additional Bonds by a Credit Agreement Provider at the request of the Authority.

The term *Credit Agreement Provider* shall mean (i) with respect to any Credit Agreement consisting of a policy of municipal bond insurance or a surety bond, an issuer of policies of insurance insuring the timely payment of scheduled debt service on governmental obligations such as any Series of Bonds or Additional Bonds, provided that a Rating Authority having an outstanding rating on the Bonds or Additional Bonds would rate the Bonds or Additional Bonds upon delivery of the Bonds or Additional Bonds fully insured by a standard policy issued by the issuer in its highest generic rating category for such obligations; and (ii) with respect to any Credit Agreement consisting of a letter or line of credit, any financial institution, provided that a Rating Authority having an outstanding rating on the Bonds or Additional Bonds would rate the Bonds or Additional Bonds in one of its two highest generic rating categories for such obligations if the letter or line of credit proposed to be issued by such financial institution secured the timely payment of the entire principal amount of a series of Bonds or Additional Bonds and the interest thereon.

The term *Debt Service Fund* shall mean the special fund or account created and established by the provisions of Section 9(a) of this Resolution.

The term *Debt Service Requirements* shall mean as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the Authority as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest calculated by (a) either (i) an interest rate equal to the average rate borne by such Bonds (or by comparable debt in the event that such Bonds have not been outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, (ii) if the Bonds bear interest at tax-exempt rates, an interest rate equal to the 24 month average of the Index (as most recently published in *The Bond Buyer*), unless such index is no longer published in *The Bond Buyer*, in which case the index to be used in its place shall be that index which the Authority Representative determines most closely replicates such index as set forth in a certificate of a Authority Representative, (iii) if the Bonds bear interest at taxable rates, the index which the Authority Representative determines is an accepted market index for taxable rates, (iv) that interest rate which, in the judgment of the Authority Representative, based, to the extent possible, upon an accepted market index which corresponds with the provisions of the subject Bonds, is the average rate anticipated to be in effect with respect to such Bonds or (v) that interest rate which, in the judgment of the Authority Representative, based upon the interest rate methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement, is the average rate anticipated to be in effect; and (b) that the debt service of such
bonds is amortized such that annual debt service is substantially level over the remaining stated life of such bonds, and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

The term *Defeasance Securities* shall mean (i) Federal Securities, (ii) noncallable obligations of an Authority or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the Authority or instrumentality and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) non-callable obligations of a state or an Authority or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Bonds.

The term *Depository* shall mean an official depository bank of the Authority.

The term *Designated Trust Office* shall have the meaning ascribed to said term in Section 5(b) of this Resolution.

The term *Engineering Report* shall mean the "Final Report of the Plumbing Plan," prepared by Lockwood, Andrews & Newman, Inc., dated September 21, 2007, as such report may be amended, modified and changed and superseded with the approval of the Authority and Sponsors, at any time prior to the execution of construction contracts for the Project or as modified and changed by change orders issued after the execution of such construction contracts; provided, however, no such change orders shall adversely affect any of the Sponsors without the consent of the Sponsors.

The term *Facilities* shall mean the facilities, wells, diversion structures, treatment plants, storage tanks, capacity rights, lines, booster pumps, and other appurtenances sufficient to produce, divert, treat and deliver the water to which the Sponsors are entitled under the Contract and any improvements, additions, or extensions to such Facilities hereafter acquired or constructed to deliver water between such places.

The term *Federal Securities* shall mean direct, non-callable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).
The term **Fiscal Year** shall mean the twelve month accounting period used by the Authority in connection with the operation of the Project, currently ending on September 30th of each year, which may be any twelve consecutive month period established by the Authority, but in no event may the Fiscal Year be changed more than one time in any three calendar year period.

The term **Fitch** shall mean Fitch Ratings, Inc., its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating Authority, Fitch shall be deemed to refer to any other nationally recognized securities rating Authority designated by the Authority.

The term **Funds** shall mean the Debt Service Fund and Construction Fund created and held pursuant to this Resolution.

The term **Government Securities** shall mean (i) direct non-callable obligations of the United States, including obligations that are unconditionally guaranteed by the United States of America; (ii) non-callable obligations of an Authority or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the Authority or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; (iii) non-callable obligations of a state or an Authority or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Bonds.

The term **Interest Payment Date** shall mean the date semiannual interest is payable on the Bonds, while any of the Bonds remain Outstanding as set forth in the FORM OF BOND.

The term **IRS Code** shall mean the Internal Revenue Code of 1986, as amended.

The term **Land Interests** shall mean the easements, right-of-way, and other interests in real property necessary for the acquisition, construction, and operation of the Facilities and the Water Rights for the Project.

The term **MSRB** means the Municipal Securities Rulemaking Board.

The term **Maturity** shall mean the date on which the principal of a Bond becomes due and payable as therein and herein provided, whether at Stated Maturity, by redemption or otherwise.
The term *Moody's* shall mean Moody's Investors Service, Inc., its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating Authority, Moody's shall be deemed to refer to any other nationally recognized securities rating Authority designated by the Authority.

The term *Operation and Maintenance Expenses* shall mean all direct costs and expenses incurred by the Authority for its operation and maintenance, including but not limited to, the operation and maintenance of the Project, including (for greater certainty but without limiting the generality of the foregoing) amounts payable under any contract with any person, including, but not limited to any federal, state, or local Authority for the right to produce, withdraw or divert and use water, any contribution or payment in lieu of taxes or any fee or charge by any government authority relating to the Authority's production, withdrawal or diversion of or sale of treated water hereunder, the costs of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, supplies, services, and administration of the Project, Overhead Expenses, any required costs of mitigation and land management incidental to Project operation, and costs of operating, repairing, maintaining, and replacing equipment for proper operation and maintenance of the Project. The term “Operation and Maintenance Expenses” does not include depreciation charges or such portion of the above described costs to the extent such costs are paid pursuant to an agreement other than the Contract.

The term *Outstanding* shall mean when used in this Resolution with respect to Bonds means, as of the date of determination, all Bonds of any series issued and delivered pursuant to this Resolution, except:

1. those Bonds canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

2. those Bonds for which payment has been duly provided by the Authority in accordance with the provisions of Section 30 of this Resolution by the irrevocable deposit with the Paying Agent/Registrar, or an authorized escrow agent, of money or Government Securities, or both, in the amount necessary to fully pay the principal of, premium, if any, and interest thereon to maturity or redemption, as the case may be, provided that, if such Bonds are to be redeemed, notice of redemption thereof shall have been duly given pursuant to this Resolution or irrevocably provided to be given to the satisfaction of the Paying Agent/Registrar, or waived; and

3. those Bonds that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 5(f) of this Resolution.

The term *Overhead Expenses* shall mean the Authority's reasonable and necessary costs and expenses incurred at any time directly related to the issuance and servicing of the Bonds, the acquisition of Land Interests required for the Project, the design, permitting, financing, acquisition, construction, and ownership of the Project and any other activities required of or involving the Authority in connection with or attributable to the Project or the Bonds, including,
but not limited to: (i) per diem and reimbursable expenses incurred by the Directors of the Authority for special meetings of the Authority's Board related to the Project; (ii) services of the professional, technical skilled and unskilled persons and firms engaged by or associated with the Authority, other than Authority staff personnel, together with their reimbursable expenses paid or required to be paid by the Authority; (iii) salaries of the Authority's staff attributable to the Project or the Bonds based on time expended, as documented or reasonably estimated by the President, Board of the Authority; (iv) the costs of preparing applications for and obtaining all approvals and authorizations required for the Project or the Bonds from the regulatory authorities having jurisdiction; (v) the cost of property casualty and public liability insurance incurred prior to the Completion Date; including any insurance deductible charged to or required to be paid by the Authority; provided that if the Authority is unable to obtain such insurance on an occurrence basis, then any expense incurred by the Authority from and after the Completion Date for casualty and public liability insurance, including any insurance deductible, shall be paid by the Sponsors; (vi) all costs incurred in litigation involving or relating to the Project; and (vii) any and all other costs and expenses, including out-of-pocket expenses, incurred by the Authority attributable to the Project or the Bonds, whether enumerated above or not, and whether or not included in the definition or as a part of Project Costs.

The terms Paying Agent/Registrar, Paying Agent or Registrar shall mean the agent appointed pursuant to Section 5 of this Resolution or any successor to such agent.

The term Participating Entities shall mean with respect to the Contract, Cities of Buda, San Marcos and San Marcos and Canyon Regional Water Authority.

The term Phase 1A Project shall mean the design and construction of facilities to interconnect the Cities of Kyle and Buda water systems. The Project will use the Phase 1A Project facilities to deliver Carrizo water into the Buda system. Facilities include a possible water pump section, pumps, ground storage tank, chlorine treatment system, yard piping necessary to receive and pump water, fee simple purchase of property for the pump station and new transmission pipeline.

The term Phase 1B Improvements Project shall include design, construction and equipment of multiple wells drilled and installed; the primary collection line from the well field to the treatment plant along with the individual collection lines; a sand filter water treatment plant including filters, disinfection equipment, high service pump station, and clearwell storage; plant construction in phases with Phase 1B expected to provide a treatment capacity of approximately 5 MGD, with an ultimate plant buildout of approximately 35 MGD; and transmission mains from the water treatment plant to the Project’s Phase 1A infrastructure all as further set forth in the Authority's application to the Texas Water Development Board.

The term Project shall mean, collectively, the Land Interests and the Facilities as described in the recitals to the Contract and in the Engineering Report.

The term Project Costs shall mean and includes, without limitation, the following costs incurred for the Project by or on behalf of the Authority or the Sponsors: (i) the cost of
acquisition of the Land Interests, including appraisals, closing costs and title insurance policies; (ii) the cost of acquisition, construction, repair, replacement, improvement or decommissioning of the Facilities, and any structure, item of equipment, or other item, used for, or in connection with, the Project; (iii) the cost of site preparation of the Land Interests, including demolition or removal of structures and improvements as necessary or incident to accomplishing the Project; (iv) the cost of engineering, legal, architectural or other related services; (v) the preparation cost of plans, specifications, studies, surveys, cost estimates, and other expenses necessary or incident to planning, providing, or financing the Project; (vi) the cost of machinery, equipment, furnishings, and facilities necessary or incident to placing the Project in operation; (vii) finance charges and interest before, during, and after construction as permitted by the laws of the State; (viii) costs incurred in connection with financing the project, including, without limitation: (1) financing, legal, accounting, financial advisory, rating Authority, and auditing fees, expenses and disbursements; (2) the cost of printing, engraving, and reproduction services; and (3) the cost of a trustee's or paying agent's initial or acceptance fee and subsequent fees; (ix) all costs, fees and expenses of litigation of all kinds; (x) the cost of property casualty and public liability insurance; (xi) the fees and costs of the underwriters as the anticipated Purchaser of the Bonds; (xii) reimbursement of the costs previously incurred by the Sponsors with respect to the Project; and (xiii) other costs generally recognized as a part of Project construction costs.

The term **Project Engineer** shall mean such engineer or engineering firm selected by the Authority.

The term **Purchaser** shall mean the initial purchaser of the Bonds, the Texas Water Development Board.

The term **Record Date** shall mean the Business Day of each month as set forth in the FORM OF BOND.

The term **Registration Books** shall mean the books or records relating to the registration, payment and transfer or exchange of the Bonds maintained by the Paying Agent/Registrar pursuant to Section 5 of this Resolution.

The term **Registered Owner** shall mean the entity or person in whose names any of the Bonds are registered in the Registration Books.

The term **Resolution** shall mean this resolution adopted by the Board on October 25, 2017.

The term **Rule** shall mean SEC Rule 15c2-12, as amended from time to time.

The term **SEC** means the United States Securities and Exchange Commission.

The term **Series** shall mean any designated Series of Bonds issued pursuant to this Resolution.
The term *Special Project Bonds* shall mean obligations which the Authority expressly reserves the right to issue in Section 14 of this Resolution.

The term *State* shall mean the State of Texas.

The term *Stated Maturity* shall mean, when used with respect to the Bonds, the scheduled maturity or mandatory sinking fund redemption date of a series of the Bonds.

The term *Water Rights* shall mean the right to produce, withdraw or divert water, and transport the water from the location where it is produced, withdrawn, or diverted into Caldwell County, Guadalupe County, Hays County, and the surrounding counties. "Water Rights" are a component of "Land Interests."
EXHIBIT B

FORM OF BOND

REGISTERED NO. ________  PRINCIPAL AMOUNT $___________

UNITED STATES OF AMERICA
STATE OF TEXAS
ALLIANCE REGIONAL WATER AUTHORITY
CONTRACT REVENUE BONDS
(REGIONAL WATER SUPPLY CONTRACT PROJECT – CITY OF SAN MARCOS,
TEXAS)
SERIES 2017C

BOND DATE:  STATED MATURITY:  INTEREST RATE:  CUSIP NO.:

November 22, 2017

REGISTERED OWNER: _____________________________________________________

PRINCIPAL AMOUNT: ____________________________________________ DOLLARS

The Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district of the State of Texas (the "State"), created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and existing under the laws of the State, for value received, hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the Bond Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 of each year commencing August 15, 2018.

Principal and premium, if any, of the Bond shall be payable to the Registered Owner hereof (the "Holder") upon presentation and surrender, at a corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Resolution hereinafter referenced) whose name appears on the Security Register
maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the last Business Day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. The foregoing notwithstanding, so long as the Texas Water Development Board is the registered owner of 100% in aggregate principal amount of the Bonds then outstanding, payment of principal and interest on the Bonds shall be made thereto by wire transfer, at no expense to the Texas Water Development Board. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the Authority and the securities depository.

This Bond is one of the series specified in its title issued in the aggregate principal amount of $11,450,000 (the "Bonds") pursuant to a resolution adopted by the governing body of the Authority (the "Resolution"), (i) FOR CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE PROJECT INCLUDING BUT NOT LIMITED TO THE PHASE 1B IMPROVEMENTS WATER SUPPLY PROJECT AND (ii) PAYING THE COSTS OF ISSUANCE OF THE BONDS.

The principal amount of a Term Bond required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the Authority, by the principal amount of any Term Bonds of such Stated Maturity which, at least 50 days prior to the mandatory redemption date (1) shall have been defeased or acquired by the Authority and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Authority with money in the Debt Service Fund, or (3) shall have been redeemed pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

The Bonds stated to mature on and after August 15, 2028 may be redeemed prior to their Stated Maturities, at the option of the Authority, in inverse order of maturity on February 15, 2028, or on any date thereafter, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If this Bond is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond
(or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Bonds of this series are special obligations of the Authority payable from and equally and ratably secured solely by a lien on and pledge of the Bond Payments received by the Authority from the City pursuant to the provisions of the Contract. In the Resolution, the Authority reserves and retains the right to issue Additional Bonds, without limitation as to principal amount but subject to any terms, conditions, or restrictions set forth in the Resolution or as may be applicable thereto under law or otherwise. The Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the Authority or System, except with respect to the Bond Payments.

The Holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Reference is hereby made to the Resolution, copies of which are on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description and nature of the Special Payments pledged for the payment of the Bonds; the terms and conditions under which the Authority may issue Additional Bonds; the terms and conditions relating to the transfer or exchange of the Bonds; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Authority and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Resolution. Capitalized terms used herein have the same meanings assigned in the Resolution.

This Bond, subject to certain limitations contained in the Resolution, may be transferred on the Registration Books upon presentation and surrender at a corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The Authority and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Bond as the owner hereof for purposes of receiving payment of principal hereof at its Stated
Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the Authority nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Authority. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date" - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Bond in order to render the same a legal, valid, and binding special obligation of the Authority have been performed, exist, and have been done, in regular and due time, form, and manner, as required by law, and that issuance of the Bonds does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a lien on and pledge of the Bond Payments and as otherwise provided in this Resolution. In case any provision in this Bond or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Board of the Authority has caused this Bond to be duly signed with the manual or facsimile signature of the Chair or Vice Chair of the Board of the Authority and countersigned with the manual or facsimile signature of the Secretary of the Board of the Authority.

ALLIANCE REGIONAL WATER AUTHORITY

______________________________
Chair [Vice Chair], Board

ATTESTED:

______________________________
Secretary, Board

C. Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bond Only.
I HEREBY CERTIFY that this Bond has been examined and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this ________________________________.

___________________________________
Comptroller of Public Accounts
Of the State of Texas

D. Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds Only.

This Bond has been duly issued under the provisions of the within-mentioned Resolution; the Bond or Bonds of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: ________________________________

BOKF, NA
as Paying Agent/Registrar

By: ________________________________
Authorized Signature

E. Form of Assignment.
FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): ____________________________________________

(Social Security or other identifying number): _______________________________________

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints ________________________ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: ____________________________________

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

Signature guaranteed:

F. The Initial Bond of each series shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

i) immediately under the name of the Bond(s) the headings "Interest Rate" and "Stated Maturity" shall both be completed "as shown below";

ii) the first two paragraphs shall read as follows:

Registered Owner: ________________________________________________________________

Principal Amount: ________________________________________________________________

The Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district of the State of Texas, with its principal office located in San Marcos, Texas, for value received, hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the 15th day of August in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:
Year of Stated Maturity    Principal Amounts ($)    Interest Rates (%)
(Information to be inserted from Sections 3 and 4).

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Bond Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to Stated Maturity or prior redemption, at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15, commencing August 15, 2018 (the "Interest Payment Date").

Principal and premium, if any, of this Bond shall be payable to the Registered Owner hereof (the Holder), upon its presentation and surrender, at a corporate trust office of BOKF, NA, Dallas, Texas (the "Paying Agent/Registrar"). Interest shall be payable to the Holder of this Bond whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the last Business Day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.
EXHIBIT C

FORM OF PROJECT FUND REQUISITION

PROJECT FUND REQUISITION

DATE: ______________

Alliance Regional Water Authority hereby makes this requisition pursuant to "A Resolution by the Board of the Alliance Regional Water Authority Authorizing the Issuance of Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas), Series 2017C; and Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale, and Delivery of Such Bonds" adopted by the Board on October 25, 2017. The undersigned hereby authorizes disbursement from the Project Fund to pay Project Costs for the purposes and in the amounts as follows:

<table>
<thead>
<tr>
<th>Name of Payee</th>
<th>Nature of Disbursement</th>
<th>Amount</th>
</tr>
</thead>
</table>
EXHIBIT D

CONTINUING DISCLOSURE

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 28 of this Resolution.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City of San Marcos, Texas to be provided annually in accordance with such Section 28 are audited financial statements of the City of San Marcos, Texas.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to above.
EXHIBIT E

REGIONAL WATER SUPPLY CONTRACT
EXHIBIT F

APPROVAL CERTIFICATE

The undersigned Authorized Representative of the City of San Marcos, Texas pursuant to the resolution (the "Resolution") authorizing the issuance of obligations designated as "Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project – City of San Marcos, Texas) Series 2017C," (the "Bonds") hereby approves the following terms of the Bonds:

(i) the total principal amount of the Bonds of $11,450,000;

(ii) the purchase price for the Bonds is $11,450,000 (representing the original principal amount of the Bonds);

(iii) the interest rates and maturity schedule for the Bonds are as set forth below:

<table>
<thead>
<tr>
<th>Year of Stated Maturity (August 15)</th>
<th>Principal Amounts ($)</th>
<th>Interest Rates (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>540,000</td>
<td>0.630%</td>
</tr>
<tr>
<td>2020</td>
<td>545,000</td>
<td>0.700%</td>
</tr>
<tr>
<td>2021</td>
<td>545,000</td>
<td>0.780%</td>
</tr>
<tr>
<td>2022</td>
<td>550,000</td>
<td>0.900%</td>
</tr>
<tr>
<td>2023</td>
<td>555,000</td>
<td>1.010%</td>
</tr>
<tr>
<td>2024</td>
<td>560,000</td>
<td>1.100%</td>
</tr>
<tr>
<td>2025</td>
<td>570,000</td>
<td>1.210%</td>
</tr>
<tr>
<td>2026</td>
<td>575,000</td>
<td>1.290%</td>
</tr>
<tr>
<td>2027</td>
<td>580,000</td>
<td>1.370%</td>
</tr>
<tr>
<td>2028</td>
<td>590,000</td>
<td>1.510%</td>
</tr>
<tr>
<td>2029</td>
<td>600,000</td>
<td>1.680%</td>
</tr>
<tr>
<td>2030</td>
<td>610,000</td>
<td>1.830%</td>
</tr>
<tr>
<td>2031</td>
<td>620,000</td>
<td>1.980%</td>
</tr>
<tr>
<td>2032</td>
<td>635,000</td>
<td>2.060%</td>
</tr>
<tr>
<td>2033</td>
<td>645,000</td>
<td>2.130%</td>
</tr>
<tr>
<td>2034</td>
<td>660,000</td>
<td>2.180%</td>
</tr>
<tr>
<td>2035</td>
<td>675,000</td>
<td>2.220%</td>
</tr>
<tr>
<td>2036</td>
<td>690,000</td>
<td>2.260%</td>
</tr>
<tr>
<td>2037</td>
<td>705,000</td>
<td>2.290%</td>
</tr>
</tbody>
</table>

(iv) the Bonds are subject to redemption as set forth below:

The Bonds stated to mature on and after August 15, 2028 may be redeemed prior to their Stated Maturities, at the option of the Authority, in inverse order of maturity on February 15, 2028, or on any date thereafter, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption...
price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If this Bond is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.
EXECUTED AND DELIVERED THIS 17th day of October, 2017.

CITY OF SAN MARCOS, TEXAS

____________________________________
Title: _______________________________
PHASE 1B OVERVIEW
PHASE 1B COMPONENTS

• Carrizo wells
• Raw water collection lines
• Water treatment plant
• Finished water transmission mains
• Booster pump stations
• Delivery to customers tanks
• Administrative building

Total Projected Cost: $213.4 Million
NORTHERN DELIVERY SYSTEM

- Kyle Delivery Point
- San Marcos Delivery Point 1
- San Marcos Delivery Point 2
- County Line SUD Delivery Point
- Booster Pump Station 1
PROJECT STATUS

• Water Leases: ✓
• Groundwater Permits: ✓
• Project Financing: ✓

Next Steps:
• Engineering Design
• Easement Acquisition
• Construction

Texas Water Development Board approved $213 million in project financing

Carrizo Water to be Delivered in 2023
STATE FUNDING

- Three debt issuances coinciding with project phasing.
- TWDB SWIFT funding is issued based on the State’s credit rating with an additional subsidy

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2019</th>
<th>2021</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARWA Total</td>
<td>$31.93 MM</td>
<td>$85.88 MM</td>
<td>$95.56 MM</td>
<td>$213.4 MM</td>
</tr>
<tr>
<td>San Marcos Share</td>
<td>$11.45 MM</td>
<td>$30.80 MM</td>
<td>$34.27 MM</td>
<td>$76.52 MM</td>
</tr>
</tbody>
</table>

**TWDB - SWIFT Rate Subsidy Information**

<table>
<thead>
<tr>
<th>Debt Term (yrs)</th>
<th>State Subsidy</th>
<th>Budgeted Rate*</th>
<th>Actual SWIFT Subsidized Rate*</th>
<th>Interest Savings**</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>35%</td>
<td>2.65%</td>
<td>1.853%</td>
<td>$9,430,000</td>
</tr>
</tbody>
</table>

* Budgeted and Actual are for 2017 issuance only.
** Based on $76.5 million capital project versus unsubsidized rates.
QUESTIONS

www.alliancewater.org

Graham Moore, P.E.
Executive Director
(512) 294-3214
qmoore@alliancewater.org
Alliance Regional Water Authority
$11,450,000 Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2017C (20-Year Low Interest Loan)

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**Alliance Regional Water Authority**

$11,450,000 Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2017C (20-Year Low Interest Loan)

**Sources & Uses**

Dated 11/22/2017 | Delivered 11/22/2017

**Sources Of Funds**

<table>
<thead>
<tr>
<th>Par Amount of Bonds</th>
<th>$11,450,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Sources</strong></td>
<td><strong>$11,450,000.00</strong></td>
</tr>
</tbody>
</table>

**Uses Of Funds**

| Costs of Issuance            | 268,765.50   |
| Deposit to Project Construction Fund | 11,181,234.50 |
| **Total Uses**               | **$11,450,000.00** |
# Final Numbers

## Alliance Regional Water Authority

$11,450,000 Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2017C (20-Year Low Interest Loan)

### Pricing Summary

<table>
<thead>
<tr>
<th>Maturity</th>
<th>Type of Bond</th>
<th>Coupon</th>
<th>Yield</th>
<th>Maturity Value</th>
<th>Price</th>
<th>Dollar Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/15/2019</td>
<td>Serial Coupon</td>
<td>0.630%</td>
<td>0.630%</td>
<td>540,000.00</td>
<td>100.00%</td>
<td>540,000.00</td>
</tr>
<tr>
<td>08/15/2020</td>
<td>Serial Coupon</td>
<td>0.700%</td>
<td>0.700%</td>
<td>545,000.00</td>
<td>100.00%</td>
<td>545,000.00</td>
</tr>
<tr>
<td>08/15/2021</td>
<td>Serial Coupon</td>
<td>0.780%</td>
<td>0.780%</td>
<td>550,000.00</td>
<td>100.00%</td>
<td>550,000.00</td>
</tr>
<tr>
<td>08/15/2022</td>
<td>Serial Coupon</td>
<td>0.900%</td>
<td>0.900%</td>
<td>550,000.00</td>
<td>100.00%</td>
<td>550,000.00</td>
</tr>
<tr>
<td>08/15/2023</td>
<td>Serial Coupon</td>
<td>1.010%</td>
<td>1.010%</td>
<td>555,000.00</td>
<td>100.00%</td>
<td>555,000.00</td>
</tr>
<tr>
<td>08/15/2024</td>
<td>Serial Coupon</td>
<td>1.100%</td>
<td>1.100%</td>
<td>560,000.00</td>
<td>100.00%</td>
<td>560,000.00</td>
</tr>
<tr>
<td>08/15/2025</td>
<td>Serial Coupon</td>
<td>1.210%</td>
<td>1.210%</td>
<td>570,000.00</td>
<td>100.00%</td>
<td>570,000.00</td>
</tr>
<tr>
<td>08/15/2026</td>
<td>Serial Coupon</td>
<td>1.290%</td>
<td>1.290%</td>
<td>575,000.00</td>
<td>100.00%</td>
<td>575,000.00</td>
</tr>
<tr>
<td>08/15/2027</td>
<td>Serial Coupon</td>
<td>1.370%</td>
<td>1.370%</td>
<td>580,000.00</td>
<td>100.00%</td>
<td>580,000.00</td>
</tr>
<tr>
<td>08/15/2028</td>
<td>Serial Coupon</td>
<td>1.510%</td>
<td>1.510%</td>
<td>590,000.00</td>
<td>100.00%</td>
<td>590,000.00</td>
</tr>
<tr>
<td>08/15/2029</td>
<td>Serial Coupon</td>
<td>1.680%</td>
<td>1.680%</td>
<td>600,000.00</td>
<td>100.00%</td>
<td>600,000.00</td>
</tr>
<tr>
<td>08/15/2030</td>
<td>Serial Coupon</td>
<td>1.830%</td>
<td>1.830%</td>
<td>610,000.00</td>
<td>100.00%</td>
<td>610,000.00</td>
</tr>
<tr>
<td>08/15/2031</td>
<td>Serial Coupon</td>
<td>1.980%</td>
<td>1.980%</td>
<td>620,000.00</td>
<td>100.00%</td>
<td>620,000.00</td>
</tr>
<tr>
<td>08/15/2032</td>
<td>Serial Coupon</td>
<td>2.060%</td>
<td>2.060%</td>
<td>630,000.00</td>
<td>100.00%</td>
<td>630,000.00</td>
</tr>
<tr>
<td>08/15/2033</td>
<td>Serial Coupon</td>
<td>2.130%</td>
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### Bid Information

- **Par Amount of Bonds**: $11,450,000.00
- **Gross Production**: $11,450,000.00
- **Bid (100.000%)**: 11,450,000.00
- **Total Purchase Price**: $11,450,000.00
- **Bond Year Dollars**: $128,014.86
- **Average Life**: 11.180 Years
- **Average Coupon**: 1.8541100%
- **Net Interest Cost (NIC)**: 1.8541100%
- **True Interest Cost (TIC)**: 1.8351453%

Specialized Public Finance Inc.
Dallas, Texas
# Debt Service Schedule

<table>
<thead>
<tr>
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<th>Coupon</th>
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### Debt Service Schedule

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### Yield Statistics

- **Bond Year Dollars**: $128,014.86
- **Average Life**: 11.180 Years
- **Average Coupon**: 1.8541100%
- **Net Interest Cost (NIC)**: 1.8541100%
- **True Interest Cost (TIC)**: 1.8351453%
- **Bond Yield for Arbitrage Purposes**: 1.8351453%
- **All Inclusive Cost (AIC)**: 2.0751243%

**IRS Form 8038**

- **Net Interest Cost**: 1.8541100%
- **Weighted Average Maturity**: 11.180 Years
**Alliance Regional Water Authority**

$11,450,000 Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2017C (20-Year Low Interest Loan)

### Derivation Of Form 8038 Yield Statistics

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### Description of Bonds

- **Final Maturity Date**: 8/15/2037
- **Issue price of entire issue**: 11,450,000.00
- **Stated Redemption at Maturity**: 11,450,000.00
- **Weighted Average Maturity = Bond Years/Issue Price**: 11.180 Years
- **Bond Yield for Arbitrage Purposes**: 1.8351453%

### Uses of Proceeds of Issue

- **Proceeds used for accrued interest**: -
- **Proceeds used for bond issuance costs (including underwriters’ discount)**: 268,765.50
- **Proceeds used for credit enhancement**: -
- **Proceeds allocated to reasonably required reserve or replacement fund**: -

---

Specialized Public Finance Inc.
Dallas, Texas
Final Numbers

Alliance Regional Water Authority

$11,450,000 Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2017C (20-Year Low Interest Loan)

Proof Of Bond Yield @ 1.8351453%

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Total $13,823,536.38 - $11,450,000.00 -

Derivation Of Target Amount

Par Amount of Bonds $11,450,000.00

Original Issue Proceeds $11,450,000.00

Specialized Public Finance Inc.
Dallas, Texas
AGENDA CAPTION:
Consider approval of Resolution 2017-155R, approving the purchase of seven R-Mag Circuit Breakers (part number MB11136LLMH5SBL4) and one R-Mag Circuit Breaker (part number MB11236VVMH5SBL4) for the Public Services Department-Electric Utilities Division from Wesco Distribution, Inc. through the Texas Cooperative Purchasing Network Contract #R142106 for Maintenance, Repair, and Operations ("MRO") Supplies and related services in the total amount of $136,002.00; 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: October 17, 2017

Department: Public Services Department - T. Taggart, Executive Director (By Cheryl Pantermuehl, Purchasing Manager)

Funds Required: $136,002
Account Number: Project C649
Funds Available: $280,000
Account Name: ELECTRIC MATERIAL

CITY COUNCIL GOAL:
Goal #7 - Maintain fiscal responsibility
Goal #8 - Provide for the efficient and effective delivery of services.

BACKGROUND:
The City of San Marcos is authorized by the Local Government Code, Chapter 271, to participate in cooperative purchasing programs. The Texas Cooperative Purchasing Network ("TCPN") has awarded contract #R142106 for Maintenance, Repair, and Operations ("MRO") Supplies and Related Services to Wesco Distribution, Inc., located in San Antonio, Texas. We are purchasing seven (7) R-Mag circuit breakers (part number MB11136LLMH5SBL4) at $16,682 each and one (1) R-Mag circuit breaker (part number MB11236VVMH5SBL4) at $19,228 each for the Public Services Department - Electric Utility Division. The total cost of the purchase is $136,002.

The circuits are part of the Substation Feeder Breaker Upgrade Project. These upgraded breakers will give the Electric Utility more data to lower outage times. These breakers will also improve system reliability and allow larger capacity for the system.
RESOLUTION 2017-              R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING THE PURCHASE OF SEVEN R-MAG CIRCUIT BREAKERS (PART NUMBER MB11136LLMH5SBL4) AND ONE R-MAG CIRCUIT BREAKER (PART NUMBER MB11236VVMH5SBL4) FOR THE PUBLIC SERVICES DEPARTMENT-ELECTRIC UTILITIES DIVISION FROM WESCO DISTRIBUTION, INC. THROUGH THE TEXAS COOPERATIVE PURCHASING NETWORK CONTRACT #R142106 FOR MAINTENANCE, REPAIR, AND OPERATIONS (“MRO”) SUPPLIES AND RELATED SERVICES IN THE TOTAL AMOUNT OF $136,002.00; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE PURCHASING 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 purchase of seven R-Mag Circuit Breakers (Part Number MB11136LLMH5SBL4) and one R-Mag Circuit Breaker (Part Number MB11236VVMH5SBL4) for the Public Services Department-Electric Utilities Division from Wesco Distribution, Inc. through the Texas Cooperative Purchasing Network Contract #R142106 for Maintenance, Repair and Operations (“MRO”) Supplies and Related Services in the total amount of $136,002.00 is approved.

PART 2. The City Manager or his designee is authorized to execute the appropriate purchasing 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 17th day of October 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
This proposal offers the market leading circuit breaker, the ABB R-MAG. ABB’s R-MAG has over 10 years of field proven experience and over 16,000 installations. ABB is the only company to offer a full medium voltage portfolio with magnetic actuation, from 15 to 38 kV. The R-MAG is designed to provide the most reliable breaker in the market, minimizing downtime, improving SAIDI measurements, and significantly decreasing maintenance costs over the lifetime of the product. ABB’s R-MAG delivers quantifiable value in the following areas:

**Increased reliability**
- Optimized durability with the ability to achieve 10,000 operations, five times greater than the ANSI requirement, over a temperature range of -50 to +70°C
- Minimized potential points for failure by having only one moving part in the magnetic actuator operating system, as opposed to spring-charged mechanisms that house over 100 moving parts
- Unparalleled performance of internal components
  - ABB magnetic actuator is rated for 100,000 operations for the 15 and 27 kV R-MAGs and 50,000 operations for the 38 kV R-MAG
  - ABB’s world leading vacuum interrupters are rated for 30,000 full load operations

**Reduced O&M**
- NO MAINTENANCE is required on the magnetic actuator, as opposed to spring-charged mechanisms that are dependent on periodic maintenance to ensure proper operation.
- Minimal maintenance is required every 2,000 operations, four times the ANSI standard of 500 operations between servicing
- Shorter maintenance times as there are no coils or motors to replace and there is no gas or oil used
- Easy plug and play design of the ED2 electronic control board for rapid replacement in the field

**Average maintenance costs savings over an estimated 30 year service life**

<table>
<thead>
<tr>
<th></th>
<th>Spring mechanism breaker</th>
<th>ABB R-MAG breaker</th>
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</thead>
<tbody>
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<td>Operating mechanism maintenance cost</td>
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<tr>
<td>General maintenance costs</td>
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<td>Electronic control replacement costs</td>
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<td>Lifetime maintenance costs</td>
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<tr>
<td>Lifetime O&amp;M savings per R-MAG Breaker</td>
<td></td>
<td>$10,557.50</td>
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</table>

1 For additional information on cost savings calculations, see the 'Example R-MAG Cost Savings' section below.
ABB’s R-MAG has over 10 years of proven experience with over 16,000 installations. The R-MAG comes with a 5-year comprehensive warranty and 24 hour / 7 day a week customer service.

ABB is ready to support this proposal with technical application experts, spare parts, training, and support services to ensure the ease of installation and the reduction of the total cost of ownership. Thank you in advance for considering this proposal. Please do not hesitate to contact ABB with any questions.

Best Regards,

Steven Parr
ABB Inc.
655 Century Point
Lake Mary, , 32746
Phone:
Email: Steven.parr@us.abb.com
# Commercial and Technical Tender

**ABB Inc.**  
655 Century Point  
Lake Mary, FL 32746  
Tel: 407-732-2000  

<table>
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<th>Date:</th>
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<td>Account manager:</td>
<td>Wesco San Antonio</td>
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<td>Valid through:</td>
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<td>Revision:</td>
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**Prepared for:**  
San Marcos, City Of Electric Department  
1040 Hwy 123  
San Marcos, 78666-7739  

TPCEN – Gov., contract  

**NPP contract# VH11199, TCPN/IPA**  
**supplier# R142106**  
**NJPA/E&I supplier# CNR01238**  
**NPP contract# 262836**  
**NPP contract# 142206**

**Prepared by:**  
Morgan Snoga  
Wesco Distribution, Inc.  
4410 Dividend  
San Antonio, TX 78219  
Email: Msnoga@wesco.com  
vguzman@wesco.com

## Pricing

**Standard Line Item:**

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<th>Qty</th>
<th>Image</th>
<th>Product Type</th>
<th>Net Price Each (USD)</th>
<th>Item Total (USD)</th>
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</table>
| 20   | 7   | ![Image](image_url) | **15.5 kV R-MAG circuit breaker**  
ABB Product ID: MB11136LLMH5SBL4  
ANSI outdoor magnetically actuated vacuum circuit breaker R-MAG*  
Customer Reference:  
Key ratings  
- Primary voltage: 15.5 kV  
- Current: 1250A  
- BIL: 110 kV BIL  
- Interrupting current: 20kA  
Standard lead time*  
- 20 weeks with approval drawings  
- 15 weeks without approval drawings | $16,682.00 | $116,774.00 |
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<th></th>
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</thead>
</table>
| 30 | 1 | **15.5 kV R-MAG circuit breaker**

ABB Product ID: MB11236VVMH5SBL4
ANSI outdoor magnetically actuated vacuum circuit breaker R-MAG®
Customer Reference:

Key ratings
- Primary voltage: 15.5 kV
- Current: 2000A
- BIL: 110 kV BIL
- Interrupting current: 20kA

Standard lead time*
- 20 weeks with approval drawings
- 15 weeks without approval drawings

*See full details in the Delivery section in the Terms and Conditions

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Technical Data Sheet

Item 20

**ABB Product ID:** MB11136LLMH5SBL4
ANSI outdoor magnetically actuated vacuum circuit breaker R-MAG

<table>
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<td><strong>Breaker Type:</strong></td>
<td>R-MAG</td>
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</table>
| **Breaker Rating:**         | Primary voltage: 15.5 kV  
Current: 1250A  
BIL: 110 kV BIL  
Interrupting current: 20kA |
<p>| <strong>Auxiliary Switches:</strong>     | 6 - (1) 16 deck snap action rotary switch                                   |
| <strong>Current Transformers Bushings 1-3-5:</strong> | L - 1 Set 1200/5 C400 TR 2.00 (4.12’’)                                      |
| <strong>Current Transformers Bushings 2-4-6:</strong> | L - 1 Set 1200/5 C400 TR 2.00 (4.12’’)                                      |
| <strong>BCT Shorting Type Terminal Blocks:</strong> | Standard shorting type terminal blocks                                      |
| <strong>BCT Wiring:</strong>             | #12 AWG Cable, All taps wired to term block                                 |
| <strong>Trip Voltage:</strong>           | Trip coils are not applicable for magnetically actuated breakers.          |
| <strong>ED2 Board:</strong>             | H - 85-264 VAC or 77-280 VDC High Voltage Board (15.5 kV)                  |
| <strong>Control Voltage:</strong>        | 5 - 125 VDC Operating Voltage                                              |
| <strong>Circuit Protection:</strong>     | S - Standard MCB for HTR and AUX, Knife switch for control circuits         |
| <strong>Control Terminal Blocks:</strong>| Standard terminal blocks as required.                                       |
| <strong>Control Wiring Lugs:</strong>    | Insulated Lugs (Standard)                                                   |
| <strong>Wire Markers:</strong>           | Brady wire marker sleeves as required.                                      |
| <strong>Heaters:</strong>                | 240 VAC Heater 375 Watt                                                    |
| <strong>Thermostats:</strong>           | (1) Standard thermostat included. Operating Range: 70°F to 80°F            |
| <strong>Bushing:</strong>                | Standard Bushing (15.5 kV, 600/800/1200 A, 110 kVBIL, BB&amp;MB)               |
| <strong>Bushing Terminal:</strong>       | 4 - 4 Hole NEMA Pad (1200/1250 Amp)                                        |
| <strong>Mounting Frame:</strong>         | M - Std Cabinet with galvanized legs &amp; provisions for ground lugs (15kV, 1200A) |
| <strong>Protection/Control Relay Type:</strong> | B - Basic Unit                                                               |</p>
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<th>L - Panel w/ std control switch, local/remote, &amp; ind lights only</th>
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<td>Digital Meters:</td>
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<tr>
<td>Legacy Material</td>
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**Accessories**

- 120 VAC, 1 phase GFI utility outlet mounted inside the relay control cabinet. (Qty 1)
- Cap discharge switch (Qty 1)
- 120 VAC relay cabinet light mounted inside relay control cabinet (Qty 1)
- Device Nameplates (Qty 1)

**ABB Internal Order Entry Info:**

- **CID Code:** 9AAC30400486
- **Source Location Code:** 9AAE315899
### Item 30

**ABB Product ID:** MB11236VVMH55BL4  
ANSI outdoor magnetically actuated vacuum circuit breaker R-MAG®

**Customer Reference:**

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<th>Specification</th>
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<tr>
<td><strong>Breaker Type:</strong></td>
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</table>
| **Breaker Rating:**                  | Primary voltage: 15.5 kV  
Current: 2000A  
BIL: 110 kV BIL  
Interrupting current: 20kA | |
<p>| <strong>Auxiliary Switches:</strong>              | 6 - (1) 16 deck snap action rotary switch                                                  |
| <strong>Current Transformers Bushings 1-3-5:</strong> | V - 1 Set 2000/5 C800 TR 2.00(4.12&quot;)                                                      |
| <strong>Current Transformers Bushings 2-4-6:</strong> | V - 1 Set 2000/5 C800 TR 2.00(4.12&quot;)                                                      |
| <strong>BCT Shorting Type Terminal Blocks:</strong> | Standard shorting type terminal blocks                                                    |
| <strong>BCT Wiring:</strong>                      | #12 AWG Cable, All taps wired to term block                                                 |
| <strong>Trip Voltage:</strong>                    | Trip coils are not applicable for magnetically actuated breakers.                         |
| <strong>ED2 Board:</strong>                       | H - 85-264 VAC or 77-280 VDC High Voltage Board (15.5 kV)                                 |
| <strong>Control Voltage:</strong>                 | 5 - 125 VDC Operating Voltage                                                            |
| <strong>Circuit Protection:</strong>              | S - Standard MCB for HTR and AUX, Knife switch for control circuits                        |
| <strong>Control Terminal Blocks:</strong>         | Standard terminal blocks as required.                                                     |
| <strong>Control Wiring Lugs:</strong>             | Insulated Lugs (Standard)                                                                 |
| <strong>Wire Markers:</strong>                    | Brady wire marker sleeves as required.                                                    |
| <strong>Heaters:</strong>                         | 240 VAC Heater 375 Watt                                                                  |
| <strong>Thermostats:</strong>                     | (1) Standard thermostat included. Operating Range: 70°F to 80°F                           |
| <strong>Bushing:</strong>                         | Standard Bushing (15.5 kV, 2000 A, 110 kVBIL)                                              |
| <strong>Bushing Terminal:</strong>                | 4 - 4 Hole NEMA Pad (2000 Amp)                                                           |
| <strong>Mounting Frame:</strong>                  | M - Std Cabinet with galvanized legs &amp; provisions for ground lugs (15kV, 2000A)         |
| <strong>Protection/Control Relay Type:</strong>   | B - Basic Unit                                                                            |
| <strong>Panel Configuration:</strong>             | L - Panel w/ std control switch, local/remote, &amp; ind lights only                          |</p>
<table>
<thead>
<tr>
<th><strong>Control Switch:</strong></th>
<th>Standard Control Switch w/ indicating lights</th>
</tr>
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<tbody>
<tr>
<td><strong>Local/Remote Switch:</strong></td>
<td>(1) Standard local/remote switch provided</td>
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<tr>
<td><strong>Test Switches:</strong></td>
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<td><strong>Digital Meters:</strong></td>
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<td><strong>Legacy Material</strong></td>
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**Accessories**

<table>
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<th>Device Nameplates (Qty 1)</th>
</tr>
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<tbody>
<tr>
<td>120 VAC relay cabinet light mounted inside relay control cabinet (Qty 1)</td>
</tr>
<tr>
<td>Cap discharge switch (Qty 1)</td>
</tr>
<tr>
<td>120 VAC, 1 phase GFI utility outlet mounted inside the relay control cabinet. (Qty 1)</td>
</tr>
</tbody>
</table>

**ABB Internal Order Entry Info:**

- **CID Code:** 9AAC30400486
- **Source Location Code:** 9AAE315899
Clarifications

ABB provides quotation based on the specifications provided by San Marcos, City Of Electric Department.

Revision History

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<th>Date</th>
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</table>

Example R-MAG Cost Savings

Operating mechanism maintenance cost savings

<table>
<thead>
<tr>
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<th>Mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Spring charged²</td>
</tr>
<tr>
<td>Estimated service life (years)³</td>
<td>30</td>
</tr>
<tr>
<td>Number of years between maintenance</td>
<td>2</td>
</tr>
<tr>
<td>Cost per maintenance event</td>
<td>$685.00</td>
</tr>
<tr>
<td>Cost per event</td>
<td></td>
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<tr>
<td></td>
<td>Labor cost per hour</td>
</tr>
<tr>
<td></td>
<td>Switching time (hrs)</td>
</tr>
<tr>
<td></td>
<td># of workers required for switching</td>
</tr>
<tr>
<td></td>
<td>Time to complete maintenance (hrs)</td>
</tr>
<tr>
<td></td>
<td># of workers required for maintenance</td>
</tr>
<tr>
<td></td>
<td>Material costs</td>
</tr>
<tr>
<td>Lifetime maintenance costs</td>
<td>$10,275.00</td>
</tr>
</tbody>
</table>

Lifetime operating mechanism maintenance cost savings: $10,275.00

² The values used for the spring charged mechanism breaker referred to in the ‘Example R-MAG Cost Savings’ are based on ABB’s R-breaker that utilizes a spring charged mechanism.

³ The Estimated Service Life refers to the normally observed useful service life for a product. The estimated service life will vary based on the environment, maintenance and usage of the breaker; ABB offers a standard 5 year limited warranty for its R-Mag product line.
### General breaker maintenance costs

<table>
<thead>
<tr>
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<th>Spring charged</th>
<th>Magnetic actuator</th>
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</thead>
<tbody>
<tr>
<td>Estimated service life (years)</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Number of years between maintenance</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Cost per maintenance event</td>
<td>$47.50</td>
<td>$47.50</td>
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<tr>
<td>Cost per event</td>
<td>Labor cost per hour: $85</td>
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<td></td>
<td>Time to complete maintenance (hrs): 0.5</td>
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<td></td>
<td># of workers required for maintenance</td>
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<tr>
<td>Lifetime maintenance costs</td>
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Lifetime general maintenance cost savings: $0.00

### ED2.0 electronic control board cost savings

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<th>Spring mechanism change-out cost</th>
<th>R-MAG ED2 board change-out cost</th>
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<td>Number of years between replacement</td>
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<tr>
<td>Cost per replacement event</td>
<td>Labor cost per hour: $85</td>
<td>$85</td>
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<tr>
<td></td>
<td>Time to complete replacement (hrs): 9</td>
<td>1.5</td>
</tr>
<tr>
<td></td>
<td># of workers required for replacement</td>
<td>2</td>
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<tr>
<td></td>
<td>Material cost</td>
<td>$1,250.00 (coil and motor)</td>
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<tr>
<td>Lifetime maintenance costs</td>
<td>$8,340.00</td>
<td>$4,965.00</td>
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</tbody>
</table>

Lifetime change-out cost savings: $3,375.00
Optional Services

ABB can support its customers with hands-on, factory authorized training for all new installations. This training is intended for up to 10 technicians on-site to train them on the proper operation and safety requirements of their new gear. The duration and content of the class can be customized based on the experience and background of the attending technicians. The classes are led by a highly skilled, factory trained field service technician. Additional training courses are available based on customer need, such as preventive maintenance, complete refurbishment, relay coordination, etc. ABB will design the program around customer requirements.

ABB offers installation and commissioning, utilizing its factory trained service team, for all its products at competitive rates. ABB works with its customers to determine the level of support and installation schedule to fit their specific needs. ABB will waive the fee for a one day hands-on training when the ABB service team is used to support installation.

ABB also offers a preventive maintenance program at factory recommended intervals to increase the reliability and service life of your new gear. Choosing an ABB preventive maintenance program may allow ABB to extend the warranty on your equipment.
General Terms of Sale

Price
Prices are firm for shipment quoted, and do not include federal, state, or local taxes of any kind.

Payment
Payment terms are Net 30 Days.
ABB has a minimum domestic order value requirement of $500USD.
All returns are subject to a restocking fee of no more than 30% of the amount of the order.
ABB reserves the right to review and revise quotes based on cost of material fluctuation.

Cancellation Charges
Cancellation of the contract will be subject to penalties depending on the time the cancellation occurs.
ABB’s standard cancellation charges are 10% after receipt of order, 20% after drawings issued to customer for approval or if order has been engineered, 45% after release to order major material, 75% after receipt of major material, and 100% after start of fabrication.

Change Notices
Changes after order entry related to engineering, drawings, or parts could be subject to additional charges and may impact shipment schedule.

Warranty
The equipment is warranted for a period of 60 months from date of shipment.

Delivery Terms
Proposed delivery terms will be Carriage paid to.


Quoted lead times are based on current production levels. Actual lead times are dependent on available production space at time of order entry and/or release to manufacturing.

Please add 3 weeks for drawing approvals, if required. To ensure the quoted lead-time please return approval drawings to ABB within 2 weeks of receipt. ABB will make every effort to maintain a short delivery schedule.
Approval Drawings
Approval drawings, if requested or required, will be supplied within 4 weeks ARO. Manufacturing lead time is based upon timely return of approval drawings from customer within two (2) weeks of receipt of drawings. On orders requiring “hold for release to manufacturing until receipt of approval drawings”, the quoted lead time commences on the date ABB receives the approved drawings.

Shipment Schedule
Contract drawings, information submittals, manufacturing, and shipment schedules will follow the outline below and is contingent on customer approval in the time frame indicated:

I. Orders with Drawing Approval
   - Approval Drawings – 3 weeks after receipt of ABB approved order
   - Customer drawing approval time – 2 weeks to keep order timeline on schedule
   - Product ready for shipment – 15 weeks after return of all approval drawings with customer release for manufacture
   - Delivery – 1-2 weeks
   - Total lead time: 20-21 weeks

II. Orders with existing bill of material, no bill of material changes and no approval drawings (duplicate orders)
   - Manufacturing time – 15 weeks after receipt of ABB approved order
   - Delivery – 1-2 weeks
   - Total lead time: 16-17 weeks

All customer provided data and requirement must be finalized at the time of purchase order placement. Revision to contract requirements may result in schedule changes and delays. All lead-times are subject to change based on prior sales and loaded factory capacity, please contact factory for actual lead-times at time of order placement.
AGENDA CAPTION:
Consider approval of Resolution 2017-156R, approving the annual renewal of the Maximo License with IBM under DIR-SD-2108 in the amount of $52,812.20; authorizing the City Manager to execute the appropriate documents related to the renewal of this agreement; and declaring an effective date.

Meeting date: October 17, 2017

Department: Information Technology Department - Mike Sturm, Director (By Cheryl Pantermuehl, Purchasing Manager)

Funds Required: $52,812.20
Account Number: 10006144.52395 ($6,945); 22006330.52395 ($2,146); 22006332.52395 ($3,788); 22006331.52395 ($10,481); 22006333.52395 ($7,955); 22006335.52395 ($9,123); 21006322.52395 ($12,374)
Funds Available: $52,812
Account Name: Software License and Maintenance

CITY COUNCIL GOAL:
Goal #5 - Maintain and improve the City’s infrastructure
Goal #7 - Maintain fiscal responsibility
Goal #8 - Provide for the efficient and effective delivery of services

COMPREHENSIVE PLAN ELEMENT(s): Parks, Public Spaces and Facilities: Well maintained public facilities.

BACKGROUND:
The Texas Comptroller of Public Accounts Department of Information Resources (DIR) awarded a contract (DIR-SD-2108) to IBM for Maximo Asset Management System License and Maintenance. City Staff Recommends awarding a Contract to IBM Maximo for a one year subscription to Maximo License and Maintenance for a total of $52,812.20.

This software is used by the Public Services Department to manage inventory of miscellaneous repair and replacement parts for Water/Wastewater, SMEU and Fleet Services.
RESOLUTION 2017-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING THE ANNUAL RENEWAL OF THE MAXIMO LICENSE WITH IBM UNDER DIR-SD-2108 IN THE AMOUNT OF $52,812.20; AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS RELATED TO THE RENEWAL OF THIS AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The annual renewal of the Maximo License with IBM in the amount of $52,812.20 is approved.

PART 2. The City Manager, Bert Lumbreras, is authorized to execute the appropriate documents related to the renewal of this Agreement 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 17th day of October 2017

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
Customer information

<table>
<thead>
<tr>
<th>Company name</th>
<th>City of San Marcos</th>
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<tbody>
<tr>
<td>Address</td>
<td>630 East Hopkins Street</td>
</tr>
<tr>
<td></td>
<td>SAN MARCOS, Texas 78666-6300</td>
</tr>
<tr>
<td>United States</td>
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</tr>
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<td>January</td>
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<tr>
<td>Primary contact name</td>
<td>Mike Sturm</td>
</tr>
<tr>
<td>Phone</td>
<td>512-393-8112</td>
</tr>
<tr>
<td>Fax</td>
<td></td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:msturm@sanmarcostx.gov">msturm@sanmarcostx.gov</a></td>
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Customer Quote

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Any and all prices herein are suggested prices only and are subject to change at IBM's sole discretion. Products listed herein are subject to withdrawal or modification by IBM at any time at IBM's sole discretion.

Quote details

Software

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<td>130.00</td>
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| 37   | IBM Maximo Asset Management Limited Use Authorized User Annual SW Subscription & Support Renewal | 37 | E0AUTULL | 96.20 | 18,429.70 |
|      | Charge unit | Authorized User | 2.60 | 498.10 | |
|      | Item points | 2.60 | 498.10 | |
|      | Coverage | Start date: 01-Aug-2017 End date: 31-Jul-2018 |

<p>| 8    | IBM Maximo for Transportation Authorized User Annual SW Subscription &amp; Support Renewal | 8 | E0AVDULL | 49.76 | 9,520.00 |
|      | Charge unit | Authorized User | 6.22 | 1,190.00 | |
|      | Item points | 6.22 | 1,190.00 | |
|      | Coverage | Start date: 01-Aug-2017 End date: 31-Jul-2018 |</p>
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<td>Grand Total</td>
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Dear Customer:

Thank you for your inquiry regarding IBM Software.

Any and all prices herein are suggested prices only and are subject to change at IBM's sole discretion. Products listed herein are subject to withdrawal or modification by IBM at any time at IBM's sole discretion. Final coverage dates for new license, Software Subscription and Support reinstatement, and Software Subscription and Support renewal part numbers will be based upon IBM's acceptance of the order, and as specified in the applicable agreements, irrespective of the dates which may appear in this quote.

This quotation is valid from 13-Sep-2017 and will expire on 31-Oct-2017.

Your order will be governed by and is subject to the terms of your Passport Advantage Agreement or the Passport Advantage Express Agreement, as applicable, against which this transaction will be placed.

If you need assistance with placing your order or wish to discuss your quotation, please contact the IBM Representative noted below.

Yours sincerely,

MARQUEZ D. HAWKINS
Phone Number: 1-972-906-3703 x563703
Fax Number: 
E-mail Address: mdhawkins@us.ibm.com
Quotation Number: 17745432
IBM Contact: MARQUEZ D. HAWKINS
Phone Number: 1-972-906-3703 x563703

Quote Effective Date: 13-Sep-2017
Quote Expiration Date: 31-Oct-2017

Passport Advantage Agreement Number: 8844
IBM Customer Number: 7901360
Relationship SVP Level: GV

Passport Advantage Site Number: 7771722
Anniversary: 01-Jan
Quotation SVP Level: GV

Customer:
Attn: Mike Sturm
City of San Marcos
630 East Hopkins Street
SAN MARCOS TX 78666-6300
UNITED STATES

<table>
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<td>01-Aug-2017 - 31-Jul-2018</td>
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Applicable tax will be recalculated at the time of order processing.

Total Points: 284.86
Subtotal in USD: 52,812.20
Total in USD: 52,812.20

Your order is governed by and subject to the terms of your Passport Advantage Agreement or the Passport Advantage Express Agreement, as applicable, against which this transaction will be placed.

Useful/Important Web resources:
Passport Advantage information, customer secure site access, training, etc.: ibm.com/software/passportadvantage
IBM's International Program License Agreement and product License Information documents: ibm.com/software/sla
IBM Software Support web site: ibm.com/software/support

IBM Customer Number: 7901360
International Passport Advantage Agreement

Under this Agreement, Client may order Eligible Products (EPs) from IBM. Details regarding EPs are provided in Attachments, Service Descriptions, Terms of Use and Transaction Documents, collectively TDs. This Agreement and applicable TDs are the complete agreement regarding transactions by which Client acquires EPs. Client Originating Company (also identified as the Originating Site in the Passport Advantage Enrollment Form) and the IBM Originating Company that accepts the Client Originating Company’s orders agree to coordinate the administration of this Agreement within their respective Enterprises, which includes the set of legal entities that, by more than 50%, owns, are owned by, or are under common ownership with the Originating Company. The Client Originating Company is responsible for compliance with the terms for all Client sites assigned a Passport Advantage Site Number (Site(s)) under this Agreement. If there is a conflict, a TD prevails over the terms of this Agreement.

1. General

1.1 Acceptance of Terms

The Client Originating Company and thereafter each of its participating Enterprise companies accept this Agreement by submitting an IBM International Passport Advantage Enrollment Form to IBM or Client’s chosen reseller(s). This Agreement is effective on the date IBM accepts the initial order under this Agreement (the Effective Date) and remains in effect until the Client Originating Company or the IBM Originating Company terminates it under this Agreement.

An EP is subject to this Agreement when IBM accepts Client’s order by i) sending an invoice or a Proof of Entitlement (PoE) including the level of authorized use, ii) making the Program or IBM SaaS available, iii) shipping the Appliance, or iv) providing the support, service, or solution.

1.2 Changes to Agreement Terms

Because this Agreement may apply to many future orders, IBM reserves the right to modify it by providing Client at least three months’ written notice. Changes are not retroactive; they apply, as of the effective date, only to new orders and renewals. Client accepts changes by placing new orders after the change effective date or allowing transactions to renew after receipt of the change notice. Except as otherwise provided in this Agreement, all changes must be in writing, signed by both parties.

1.3 Payment and Taxes

Client agrees to pay all applicable charges specified by IBM, charges for use in excess of authorizations, any customs or other duty, tax, levy, or fee imposed by any authority resulting from Client’s acquisitions under this Agreement, and any late payment fees. Amounts are due upon receipt of the invoice and payable within 30 days of the invoice date to an account specified by IBM. Prepaid services must be used within the applicable period. IBM does not give credits or refunds for any prepaid, one-time charges, or other charges already due or paid.

Client agrees to: i) pay withholding tax directly to the appropriate government entity where required by law; ii) furnish a tax certificate evidencing such payment to IBM; iii) pay IBM only the net proceeds after tax; and iv) fully cooperate with IBM in seeking a waiver or reduction of such taxes and promptly complete and file all relevant documents.

1.4 IBM Business Partners and Resellers

IBM Business Partners and resellers are independent from IBM and unilaterally determine their prices and terms. IBM is not responsible for their actions, omissions, statements, or offerings.

1.5 Liability and Indemnity

IBM’s entire liability for all claims related to this Agreement will not exceed any actual direct damages incurred by Client up to the amounts paid (if recurring charges, up to 12 months’ charges apply) for the product or service that is the subject of the claim, regardless of the basis of the claim. This limit applies collectively to IBM, its subsidiaries, contractors, and suppliers. IBM will not be liable for special, incidental, exemplary, indirect, or economic consequential damages, or lost profits, business, revenue, goodwill, or anticipated savings.

The following amounts, if a party is legally liable for them, are not subject to the above cap: i) third party payments referred to in the paragraph below; ii) damages for body injury (including death); and iii) damages to real property and tangible personal property; and iv) damages that cannot be limited under applicable law.

If a third party asserts a claim against Client that an IBM Product acquired under this Agreement infringes a patent or copyright, IBM will defend Client against that claim and pay amounts finally awarded by a court against Client or included in a settlement approved by IBM, provided that Client promptly (i) notifies IBM in writing of the claim, (ii) supplies information requested by IBM, and (iii) allows IBM to control, and reasonably cooperates in, the defense and settlement, including mitigation efforts.

IBM has no responsibility for claims based, in whole or part, on Non-IBM Products, items not provided by IBM, or any violation of law or third party rights caused by Client’s content, materials, designs, specifications, or use of a non-current version or release of an IBM Product when an infringement claim could have been avoided by using a current version or release. Each Non-IBM Program is governed by the terms of the third party end user license agreement that accompanies it. IBM is not a party to the third party end user license agreement and assumes no obligations under it.

1.6 General Principles

Parties will not disclose confidential information without a separate, signed confidentiality agreement. If confidential information is exchanged, the confidentiality agreement is incorporated into, and subject to, this Agreement.
IBM is an independent contractor, not Client’s agent, joint venturer, partner, or fiduciary, and does not undertake to perform any of Client’s regulatory obligations, or assume any responsibility for Client’s business or operations. Each party determines the assignment of its personnel and contractors, their direction, control, and compensation.

Client is responsible for obtaining all necessary permissions to use, provide, store and process content in any services, maintenance, or support, and grants IBM permission to do the same. Some of Client’s content may be subject to governmental regulation or may require security measures beyond those specified by IBM for an offering. Client will not input or provide such content unless IBM has first agreed in writing to implement additional required security measures. Client is responsible to pay communications charges associated with accessing SaaS, Appliance Services, IBM Software Subscription and Support, and Select Support unless IBM specifies otherwise in writing.

IBM and its subcontractors may process the business contact information of Client, its employees and contractors worldwide for our business relationship, and Client has obtained the necessary consents. IBM will comply with requests to access, update, or delete such contact information. IBM may use personnel and resources in locations worldwide and third party suppliers to support the delivery of products and services.

Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other. EPs are for use within Client’s Enterprise only, and may not be assigned, resold, rented, leased, or transferred to third parties. Any attempt to do so is void. Lease-back financing of Appliances is permitted. Assignment of IBM rights to receive payments and by IBM in conjunction with the sale of the portion of IBM’s business that includes the product or service is not restricted.

All notices under this Agreement must be in writing and sent to the address below, unless a party designates in writing a different address. The parties consent to use electronic means and facsimile transmissions for communications as a signed writing. Any reproduction of this Agreement made by reliable means is considered an original. This Agreement supersedes any course of dealing, discussions or representations between the parties.

No right or cause of action for any third party is created by this Agreement or any transaction under it. Neither party will bring a legal action arising out of or related to this Agreement more than two years after the cause of action arose. Neither party is responsible for failure to fulfill its non-monetary obligations due to causes beyond its control. Each party will allow the other reasonable opportunity to comply before it claims the other has not met its obligations. Where approval, acceptance, consent, access, cooperation or similar action by either party is required, such action will not be unreasonably delayed or withheld.

1.7 Governing Laws and Geographic Scope

Each party is responsible for complying with: i) laws and regulations applicable to its business and content, and ii) import, export and economic sanction laws and regulations, including those of the United States that prohibit or restrict the export, re-export, or transfer of products, technology, services or data, directly or indirectly, to or for certain countries, end uses or end users. Client is responsible for its use of IBM and Non-IBM Products.

Both parties agree to the application of the laws of the country where the transaction is performed (or for services, the laws of the country of Client’s business address) to this Agreement, without regard to conflict of law principles. The rights and obligations of each party are valid only in the country where the transaction is performed or, if IBM agrees, the country where the product is placed in productive use, except all licenses are valid as specifically granted. If any provision is invalid or unenforceable, the remaining provisions remain in full force and effect. Nothing in this Agreement affects statutory rights of consumers that cannot be waived or limited by contract. The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under this Agreement.

1.8 Agreement Termination

After expiration or termination of its obligations under this Agreement, the Client Originating Company may terminate this Agreement without cause on one month’s notice to the IBM Originating Company, and the IBM Originating Company may terminate this Agreement on three months’ notice to the Customer Originating Company.

If Client acquired or renewed IBM Software Subscription and Support, Selected Support, IBM SaaS, or if Client acquired or renewed a Program’s license prior to the notice of termination, IBM may either continue to provide such services or allow Client to use the Program for the remainder of the current term(s), or give Client a prorated refund.

The Client Originating Company will be considered to have terminated this Agreement if neither it nor any of its participating Enterprise companies have placed orders for EPs for 24 consecutive months nor have Software Subscription and Support or Selected Support in effect, nor have any outstanding quotes for EPs.

Either of us may terminate this Agreement if the other does not comply with any of its terms, provided the one not complying is given written notice and reasonable time to comply.

Client agrees to promptly discontinue use of and destroy all of Client’s copies of a Program upon termination of a license grant.

Any terms that by their nature extend beyond termination remain in effect until fulfilled, and apply to respective successors and assignees.

1.9 Eligible Products

IBM determines EPs, and assigns each EP a point value. IBM can add or withdraw EPs (including in CEO Product Categories), change PA point values, or add or withdraw a license metric for an EP at any time. EPs may not be used to provide commercial hosting or other commercial information technology services to third parties.
For an EP, IBM may withdraw a Fixed Term license, IBM Software Subscription and Support, and Select Support, Monthly Licensing (ML) in its entirety, or a SaaS or an Appliance Service in its entirety (collectively Options) on 12 months’ written notice to all then current Clients by published announcement, letter, or e-mail.

If IBM withdraws an Option, Client understands that as of the effective date of such withdrawal, Client may not increase its level of use beyond the authorizations already acquired without IBM’s written consent, renew or purchase that Option; and if Client renewed the Option prior to the notice of withdrawal, Client may either (a) continue to use/receive that Option until the end of the then current term or (b) obtain a prorated refund.

1.10 Renewal

The term for a Fixed Term License, Token License, IBM Software Subscription and Support, Selected Support or Appliance Services automatically renews at then current charges, unless Client provides written notice of termination prior to expiration of the term.

IBM may pro-rate charges for IBM Software Subscription and Support, Selected Support, Fixed Term Licenses of six months or more, and Appliance Services to align with Client’s PA Anniversary.

To reinstate any expired Software Subscription and Support coverage, Selected Support, a Fixed Term License or Appliance Services, Client may not renew and must acquire Software Subscription and Support Reinstatement, Selected Support Reinstatement, Appliance Services Reinstatement or a new initial Fixed Term License.

For an ML, Client selects a renewal option at the time of order.

1.11 Relationship Suggested Volume Price (RSVP) Level and Suggested Volume Pricing (SVP)

An RSVP level is determined by aggregating points for all EPs ordered during Client’s Term (described below). The point value of Client’s initial EP order determines Client’s initial RSVP level. Client may attain a higher RSVP Level by placing additional EP orders. The higher RSVP level will apply to orders placed after the higher RSVP level is attained. An SVP level is also calculated for each order, and is based on the point value for that order. If the SVP level for a particular order is higher than Client’s current RSVP level, the SVP level will apply to that order.

The initial Term commences with Client’s first order after enrollment and continues until the last day of the twelfth full month thereafter (i.e., the initial PA term includes 12 full months, plus if the order was not placed on the first day of a month, the remainder of the first month). On the first day of the month following the end of the prior Term (the Anniversary), the next 12 month Term begins. For each Term after the initial Term, Client’s RSVP Level is reset on the Anniversary, based on EP acquired by all participating Client Sites during the prior Term. The RSVP Level for a new Term will not be lowered by more than one level below Client’s RSVP level at the end of the prior Term.

RSVP/SVP Level Table:

<table>
<thead>
<tr>
<th>RSVP/SVP Level</th>
<th>BL</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Points</td>
<td>&lt;500</td>
<td>500</td>
<td>1,000</td>
<td>2,500</td>
<td>5,000</td>
<td>10,000</td>
</tr>
</tbody>
</table>

1.12 Compliance Verification

Client will i) maintain, and provide upon request, records and system tools output, and access to Client’s premises, as reasonably necessary for IBM and its independent auditor to verify Client’s compliance with this Agreement, including Machine Code and Program licenses and metrics, such as sub-capacity usage, and ii) promptly order any required entitlements and pay additional charges at IBM’s then current rates, (including uses in excess of Client’s authorizations or entitlements, and associated IBM Subscription and Support and Selected Support), and other liabilities determined as a result of such verification. These compliance verification obligations remain in effect during the term of this Agreement and for two years thereafter. Client is responsible for retaining adequate records. If Client’s records are inadequate to determine IBM Subscription and Support or Selected Support charges, IBM’s charges for any excess usage will include two years of associated maintenance and IBM Subscription and Support or Selected Support.

1.13 Programs in a Virtualization Environment (Sub-Capacity Licensing Terms)

EPs that meet the operating system, processor technology, and virtualization environment requirements for sub-capacity usage may be licensed based on processor value units (PVUs) under Sub-Capacity Licensing terms (an Eligible Sub-Capacity Product) http://www-01.ibm.com/software/passportadvantage/subcaplicensing.html. Product deployments that cannot meet Sub-Capacity Licensing requirements must be licensed using Full Capacity terms.

PVU based licenses for Eligible Sub-Capacity Products must be acquired for the total number of PVUs associated with the virtualization capacity available to the Eligible Sub-Capacity Product as measured at https://www-112.ibm.com/software/howtobuy/passportadvantage/valueunitcalculator/vuca1c.wss.

Prior to an increase in an Eligible Sub-Capacity Product’s virtualization capacity, Client must first acquire sufficient licenses, including IBM Software Subscription and Support, if applicable, to cover that increase.

1.14 Client’s Reporting Responsibilities

For Sub-Capacity usage of EPs, Client agrees to install and configure the most current version of IBM’s license metric tool (ILMT) within 90 days of Client’s first Sub-Capacity based Eligible Sub-Capacity Product deployment, to promptly
install any updates to ILMT that are made available, and to collect deployment data for each such EP. Exceptions to this requirement are i) when ILMT does not yet provide support for the Eligible Sub-Capacity Product, ii) if Client’s Enterprise has fewer than 1,000 employees and contractors, Client is not a Service Provider (an entity that provides information technology services for end user customers, either directly or through a reseller), and Client has not contracted with a Service Provider to manage Client’s environment in which EPs are deployed, iii) if the total physical capacity of Client’s Enterprise servers measured on a full capacity basis, but licensed under Sub-Capacity terms is less than 1,000 PVUs, or iv) when Client’s servers are licensed to full capacity.

For all instances where ILMT is not used, and for all non PVU based licenses, Client is required to manually manage and track Client’s licenses as described in the Compliance Verification section above.

For all PVU based EP licenses, reports must contain the information in the example Audit Report available at [http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html](http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html). Reports must be prepared at least once per quarter. Failure to generate Reports or provide Reports to IBM will cause charging under full capacity for the total number of physical processor cores activated and available for use on the server.

Client will assign a person in Client’s organization with authority to manage and promptly resolve questions on Audit Reports or inconsistencies during the warranty period, license entitlement, or ILMT configuration; and promptly place an order with IBM or Client’s IBM reseller if reports reflect EP use over Client’s authorized level. IBM Software Subscription and Support and Selected Support coverage will be charged as of the date Client exceeded Client’s authorized level.

2. Warranties

Unless IBM specifies otherwise, the following warranties apply only in the country of acquisition.

The warranty for an IBM Program is stated in its license agreement.

IBM warrants it provides IBM Software Subscription and Support, Selected Support and Appliance Services using reasonable care and skill.

IBM warrants that a Machine Component of an Appliance used in its specified operating environment conforms to its official published specifications. The warranty period for an IBM Machine Component of an Appliance is a fixed period commencing on its date of installation (also called “Warranty Start Date”) specified in a TD. If a Machine Component does not function as warranted during the warranty period and IBM is unable to either i) make it do so or ii) replace it with one that is at least functionally equivalent, Client may return it to the party from whom Client acquired it for a refund.

The warranty for IBM SaaS is stated in its TD.

**IBM does not warrant uninterrupted or error-free operation of an EP or that IBM will correct all defects or prevent third party disruptions or unauthorized third party access to an EP. These warranties are the exclusive warranties from IBM and replace all other warranties, including the implied warranties or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. IBM warranties will not apply if there has been misuse, modification, damage not caused by IBM, failure to comply with instructions provided by IBM, or if otherwise stated in an Attachment or TD. Non-IBM Products are sold under this Agreement as is, without warranties of any kind.** Third parties may provide their own warranties to Client.

IBM will identify IBM EPs it does not warrant.

Unless otherwise specified in an Attachment or TD, IBM provides non-IBM EPs, **WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND.** Third parties provide and license products and services directly to Client under their own agreements.

3. Programs and IBM Software Subscription and Support

IBM Programs acquired under this Agreement are subject to IBM’s International Program License Agreement IPLA, including its LI.

A Program may include the following, including the original and all whole or partial copies: 1) machine-readable instructions and data, 2) components, 3) audio-visual content (such as images, text, recordings, or pictures), 4) related licensed materials, and 5) license use documents or keys, and documentation.

With the exception of certain Programs that IBM designates as platform or operating system specific, Client may use and install Programs in any commercially available national language for any platform or operating system available from IBM up to the level of Client’s authorizations.

3.1 Money-back Guarantee

The IPLA’s “money-back guarantee” only applies the first time Client licenses the IBM Program under this Agreement or any other valid agreement. If an IBM Program license is for a Fixed Term subject to renewal or for an initial Commitment Term, Client may obtain a refund only if Client returns the Program and its PoE within the first 30 days of this initial term. The IPLA’s “money-back guarantee” does not apply to Appliances.

3.2 Conflict between this agreement and the IPLA

If there is a conflict between the terms of this Agreement, including its Attachments and TDs, and those of the IPLA, including its LI, the terms of this Agreement prevail. The IPLA and its LIs are available on the Internet at [http://www.ibm.com/software/sla](http://www.ibm.com/software/sla).
3.3 IBM Trade-ups and Competitive Trade-ups

Licenses for certain Programs that replace qualifying IBM Programs or qualifying Non-IBM Programs may be acquired for a reduced charge. Client agrees to terminate Client’s use of the replaced Programs when Client installs the replacement Programs.

3.4 Monthly Licenses

Monthly License Programs (ML Programs) are IBM Programs provided to Client for a monthly license charge. Monthly Licenses have a term that begins on the date that Client’s order is accepted by IBM and continues for a period Client commits to pay IBM (a Commitment Term) as specified in the TD.

3.5 Fixed Term Licensing

Fixed Term Licenses have a term that begins on the date that Client’s order is accepted by IBM; on the calendar day following the expiration of a prior Fixed Term; or on the Anniversary date. A Fixed Term License is for the definite time specified by IBM in a TD.

3.6 Token Licenses

EPs which are Eligible Token Products or ETPs are assigned a Token Value. As long as the total Tokens required for all ETPs used concurrently does not exceed the number of Tokens authorized in Client’s PoE(s), Client may use Token(s) for a single ETP or for a combination of ETPs.

Prior to exceeding current Token authorizations or using an Eligible Token Product not authorized, Client must acquire sufficient additional Tokens and authorizations.

ETPs may contain a disabling device that will prevent them from being used after the end of the Fixed Term. Client agrees not to tamper with this disabling device and take precautions to avoid any loss of data.

3.7 CEO Product Categories

Collections of EPs may be offered by IBM on a per user basis subject to a minimum initial user quantity (a CEO Product Category). For Client’s first (primary) CEO Product Category, Client must acquire licenses for all users in their Enterprise who have been assigned a machine capable of accessing any Program in the CEO Product Category. For each additional (secondary) CEO Product Category, Client must meet the applicable minimum initial order quantity requirement.

Any installs of any component of a CEO Product Category can only be made and used by or for users for whom licenses have been obtained. All client-side Programs (used on an end user device to access a Program on a server) must be acquired from the same CEO Product Category as the server Program they access.

3.8 IBM Software Subscription and Support

IBM provides IBM Software Subscription and Support with each IBM Program licensed under the IPLA.

IBM Software Subscription and Support begins on the date of IBM Program acquisition and ends on the last day of the corresponding month in the following year, unless the date of acquisition is the first day of the month, in which case coverage ends on the last day of the month, 12 months from acquisition.

IBM Software Subscription and Support includes defect corrections, restrictions, bypasses, and any new versions, releases, or updates IBM makes generally available.

IBM provides Client assistance for Client’s i) routine, short duration installation and usage (how-to) questions; ii) code-related questions (together “Support”). Consult the IBM Software Support Handbook for details at http://www.ibm.com/software/support. Support for a particular version or release of an IBM Program is available only until IBM withdraws Support for that IBM Program’s version or release. When Support is withdrawn, Client must upgrade to a supported version or release of the IBM Program to continue to receive Support. The IBM “Software Support Lifecycle” policy is available at http://www.ibm.com/software/info/supportlifecycle/.

If Client elects to continue IBM Software Subscription and Support for an IBM Program at a designated Client Site, Client must maintain IBM Software Subscription and Support for all uses and installations of the IBM Program at that Site.

If Client requests to renew expiring IBM Software Subscription and Support at a lesser quantity of IBM Program uses and installations than the expiring quantity, Client must provide a report that verifies current IBM Program usage and installation, and may be required to provide other compliance verification information.

Client shall not use IBM Software Subscription and Support benefits for IBM Programs for which Client has not fully paid for IBM Software Subscription and Support. If Client does, Client must acquire IBM Software Subscription and Support reinstatement sufficient to cover all such unauthorized use at then current IBM prices.

3.9 Selected Support

Selected Support may be available for (i) Non-IBM Programs or for (ii) Programs licensed under the IBM License Agreement for Non-Warranted Programs (together “Selected Programs”).

The IBM Software Subscription and Support section above applies to Selected Programs under Selected Support except that 1) IBM may provide Client with assistance in designing and developing applications based on Client’s subscription level; 2) the IBM “Software Support Lifecycle” policy does not apply; and 3) no new versions, releases or updates are provided by IBM.
IBM does not provide licenses under this Agreement for Selected Programs.

4. **Appliances**

An Appliance is an EP which is any combination of Program Components, Machine Components (MCs) and any applicable Machine Code Components offered together as a single offering and designed for a particular function. Unless otherwise provided, terms that apply to a Program apply to the Program Component of an Appliance. Client shall not use an Appliance component independently of the Appliance of which it is a part.

Each Appliance is manufactured from parts that may be new or used, and in some cases, an Appliance or its replacement parts may have been previously installed. Regardless, IBM's warranty terms apply.

For each Appliance, IBM bears the risk of loss or damage up to the time it is delivered to the IBM-designated carrier for shipment to Client or Client’s designated location. Thereafter, Client assumes the risk. Each Appliance will be covered by insurance, arranged and paid for by IBM for Client, covering the period until it is delivered to Client or Client’s designated location. For any loss or damage, Client must i) report the loss or damage in writing to IBM within 10 business days of delivery and ii) follow the claim procedure.

When Client acquires an Appliance directly from IBM, IBM transfers title to a MC to Client or, if applicable, Client’s lessor, upon payment of all the amounts due except in the United States where title transfers upon shipment. For an upgrade acquired for an Appliance, IBM reserves transfer of title of the MC until IBM receives payment of all the amounts due and receives all removed parts, which then become IBM’s property.

If IBM is responsible for installation, Client will allow installation within 30 calendar days of shipment or additional charges may apply. Client will promptly install or allow IBM to install mandatory engineering changes. Client installs a Client-set-up Appliance according to instructions provided with it.

A Machine Code Component is computer instructions, fixes, replacements and related materials, such as data and passwords relied on, provided, used with or generated by MC, that permit the operation of the MC’s processors, storage or other functionality as stated in its Specifications. Client acceptance of this Agreement includes acceptance of IBM’s Machine Code license agreements provided with the Appliance. A Machine Code Component is licensed only for use to enable a Machine Component to function under its Specifications and only for the capacity and capability for which Client has acquired IBM’s written authorization. The Machine Code Component is copyrighted and licensed (not sold).

4.1 **IBM Appliance Services**


One year of Appliance Services, starting on the Warranty Start Date specified in a TD, is included with the purchase of an Appliance. Thereafter, automatic renewal terms apply. All renewals will be fulfilled with Appliance Services offered at the same level of service, if available, that Client was entitled to during that first year. Parts removed or exchanged for upgrade, warranty service, or maintenance are IBM property and must be returned to IBM within thirty days. A replacement assumes the warranty or maintenance status of the replaced part. When Client returns an Appliance to IBM, Client will remove all features not supported under Appliance Services, securely erase all data, and ensure that it is free of any legal restrictions that would prevent its return.

Appliance Services cover undamaged and properly maintained and installed Appliances used as authorized by IBM with unaltered identification labels. Services do not cover alterations, accessories, supply items, consumables (such as batteries), structural parts (such as frames and covers), or failures caused by a product for which IBM is not responsible.

5. **IBM SaaS**

IBM Software as a Service (IBM SaaS) is an EP offering IBM provides to Client remotely through the Internet providing access to (i) functionality of Programs, (ii) infrastructure, and (iii) technical support. IBM SaaS is not a Program but may require Client to download enabling software to use it.

Client acknowledges that International Business Machines Corporation and its subsidiaries do not control the transfer of data over telecommunications facilities, including the Internet. IBM will only provide access and use of Client’s proprietary content to IBM employees and contractors as needed to deliver IBM SaaS. IBM will not disclose Client’s proprietary content and will return or destroy it upon the expiration or cancellation of IBM SaaS. IBM will provide Client notice of any unauthorized third party access to Client’s content of which IBM becomes aware and will use reasonable efforts to remediate identified security vulnerabilities.

Client may access and use IBM SaaS only to the extent of authorizations acquired by Client. Client is responsible for use of IBM SaaS by any party who accesses the IBM SaaS with Client’s account credentials. An IBM SaaS may not be used for unlawful, obscene, offensive or fraudulent content or activity, in any jurisdiction for any user, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive or deceptive messages, viruses or harmful code, or violating third party rights. If there is a complaint or notice of violation, use may be suspended until resolved, and terminated if not resolved promptly. Unless expressly provided in a TD, Client is not authorized to use IBM SaaS to provide hosting or timesharing services to any third party.

The terms of a specific IBM SaaS offering are provided in its TD and may include without limitation, definitions, description of subscription and services, charge metrics, renewal and restrictions. TDs can be viewed at [http://www-03.ibm.com/software/sla/slab.nsf/sla/saas/](http://www-03.ibm.com/software/sla/slab.nsf/sla/saas/).
An IBM SaaS Subscription Period begins on the date that IBM notifies Client that Client has access and ends the last day of the month specified in the TD.

During an IBM SaaS Subscription Period, Client may increase Client’s subscribed level of an IBM SaaS, but may only decrease the subscribed level at the end of a Subscription Period when renewing.

During an IBM SaaS Subscription Period IBM provides assistance, as specified in the TD, for Client’s offering-specific, task-oriented questions regarding IBM SaaS. IBM SaaS technical support is available only for the currently supported versions of IBM SaaS, Client operating systems, Internet browsers, and software. IBM technical support for SaaS is available during the normal business hours (published prime shift hours) of the IBM SaaS support center.
AMERICAS

**Governing Laws and Geographic Scope** – Replace the phrase, “the laws of the country where the transaction is performed (or for internet delivered Services, the laws of the country of Client's Business Address)” with:

*Canada:* the laws of the Province of Ontario.


**General** – Replace the first sentence of paragraph two with:

Latin America (all countries): Client accepts the terms in Attachments and Transaction Documents by signing the Attachments and Transaction Documents.

**General** – Add, where required:

*Canada,* in Province of Quebec add: Both parties agree to write this document in English. Les parties ont convenu de rédiger le présent document en langue anglaise.

ASIA PACIFIC

**Governing Laws and Geographic Scope** – Replace the phrase, “the laws of the country where the transaction is performed (or for internet delivered Services, the laws of the country of Client’s Business Address)” with:

*Cambodia, Laos:* the laws of the State of New York, United States;

*Australia:* the laws of the State or Territory in which the transaction is performed;

*Hong Kong SAR, Macau SAR:* the laws of Hong Kong Special Administrative Region (“SAR”);

*Korea:* the laws of the Republic of Korea;

*Taiwan:* the laws of Taiwan.

**Governing Laws and Geographic Scope** – Add as a new paragraph:

*Cambodia, India, Laos, Philippines, Vietnam:* Disputes will be finally settled by arbitration, held in Singapore, in accordance with the Arbitration Rules of the Singapore International Arbitration Center (“SIAC Rules”) then in effect.

*Indonesia:* Disputes will be finally settled by arbitration, held in Jakarta, Indonesia, in accordance with the rules of the Board of the Indonesian National Board of Arbitration (Badan Arbitrase Nasional Indonesia or “BANI”) then in effect.

*Malaysia:* Disputes will be finally settled by arbitration held in Kuala Lumpur in accordance with the Arbitration Rules of the Kuala Lumpur Regional Centre for Arbitration (“KLRCA Rules”) then in effect.

*People’s Republic of China:* Either party has the right to submit the dispute to the China International Economic and Trade Arbitration Commission in Beijing, the PRC, for arbitration in accordance with arbitration rules in force at the time.

**Governing Laws and Geographic Scope** – Add as a new paragraph:

*Hong Kong SAR, Macau SAR, Korea and Taiwan:*

All rights and obligations are subject to the courts of the country in which the transaction is performed except that in the countries identified below, all disputes will be brought before and subject to the exclusive jurisdiction of the following courts of competent jurisdiction:

*Hong Kong SAR, Macau SAR:* the courts of Hong Kong Special Administrative Region (SAR);

*Korea:* the Seoul Central District Court of the Republic of Korea;

*Taiwan:* the courts of Taiwan.

EMEA

**Appliances** – Replace the fourth paragraph with:

*Spain, Switzerland, and Turkey:* When IBM accepts Client’s order, IBM transfers title to Client or, if applicable, Client’s lessor when the Appliance is shipped to Client or its designated location. However, IBM reserves a purchase money security interest in the MC until IBM receives the amounts due.

**Warranties** – Add to all countries in Western Europe, after paragraph 4:

The warranty for Machines acquired in Western Europe will be valid and applicable in all Western European countries, provided the Machines have been announced and made available in such countries. For purposes of this paragraph, “Western Europe” means Andorra, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom, Vatican State, and any country that subsequently joins the European Union, from date of accession.

**Liability and Indemnity**

*France, Germany, Malta, Portugal, Spain* – Insert after “exceed” and before “the amount”: the greater of €500,000 (five hundred thousand euro) or
Ireland, UK - Replace the phrase “up to the amounts paid” with: up to 125% of the amounts paid

Governing Laws and Geographic Scope – Replace the phrase, “the laws of the country where the transaction is performed (or for internet delivered Services, the laws of the country of Client’s Business Address)” with:

Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Romania, Serbia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: the laws of Austria;


Angola, Bahrain, Botswana, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Jordan, Kenya, Kuwait, Liberia, Malawi, Malta, Mozambique, Nigeria, Oman, Pakistan, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Somalia, Tanzania, Uganda, United Arab Emirates, the United Kingdom, West Bank/Gaza, Yemen, Zambia, and Zimbabwe: the laws of England;

Estonia, Latvia, and Lithuania: the laws of Finland;

Russia: the laws of the Russian Federation;

South Africa, Namibia, Lesotho and Swaziland: the laws of the Republic of South Africa.

Governing Laws and Geographic Scope – Add to the end of the first paragraph:

Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Romania, Serbia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: All disputes will be finally settled under the Rules of Arbitration and Conciliation of the Federal Economic Chamber in Vienna (Vienna Rules).

Algeria, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo Republic, Djibouti, Democratic Republic of Congo, Equatorial Guinea, Guinea-Bissau, French Guiana, French Polynesia, Gabon, Guinea, Guinea-Bissau, Ivory Coast, Lebanon, Madagascar, Mali, Mauritania, Mauritius, Mayotte, Morocco, New Caledonia, Niger, Reunion, Senegal, Seychelles, Togo, Tunisia, Vanuatu, Wallis and Futuna: Any dispute will be finally settled by arbitration, administered by the ICC International Court of Arbitration, in Paris, in accordance with its arbitration rules in effect at the time of arbitration, except as may be modified herein or by agreement of the parties.

Angola, Bahrain, Botswana, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Jordan, Kenya, Kuwait, Liberia, Libya, Malawi, Malta, Mozambique, Nigeria, Oman, Pakistan, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Somalia, Tanzania, Uganda, United Arab Emirates, West Bank/Gaza, Yemen, Zambia, Zimbabwe: Any dispute will be finally settled by arbitration, administered by the London Court of International Arbitration, in accordance with the LCIA arbitration rules in effect at the time of arbitration, except as may be modified herein or by agreement of the parties.

Estonia, Latvia, and Lithuania: All disputes will be finally settled in arbitration to be held in Helsinki, Finland in accordance with the arbitration laws of Finland then in effect.

Russia: All disputes will be settled by Arbitration Court of Moscow.

South Africa, Namibia, Lesotho, and Swaziland: Any dispute will be finally settled by arbitration, administered by the Arbitration Foundation of South Africa Rules (AFSA Rules), in accordance with the ICC arbitration rules in effect at the time of arbitration, except as may be modified herein or by agreement of the parties.

Governing Laws and Geographic Scope – Add to the end of the second paragraph:

All disputes will be brought before and subject to the exclusive jurisdiction of the following courts of competent jurisdiction:

Andorra: the Commercial Court of Paris;

Austria: the court of Vienna, Austria (Inner-City);

Greece: the competent court of Athens;

Israel: the courts of Tel Aviv-Jaffa;

Italy: the courts of Milan;

Portugal: the courts of Lisbon;

South Africa, Namibia, Lesotho and Swaziland: the High Court in Johannesburg;

Spain: the courts of Madrid;

Turkey: the Istanbul Central (Çağlayan) Courts and Execution Directorates of Istanbul, the Republic of Turkey;

United Kingdom: the English courts.
AGENDA CAPTION:
Consider approval of Resolution 2017-157R, approving the annual renewal of the Microsoft Enterprise Agreement with SHI under DIR-SDD-2503 for software licenses in the amount of $269,324.50; authorizing the City Manager to execute the appropriate documents related to the renewal of this agreement; and declaring an effective date.

Meeting date: October 17, 2017

Department: Information Technology - Mike Sturm, Director (by Cheryl Pantermuehl, Purchasing Manager)

Funds Required: $269,324.50
Account Number: 10001280-52395, 22006335-52395, 21006322-52395, G0008-federal-progad-2014, 12070240-52395, 12024225-52395, 10001132-52395

Funds Available:
Account Name: Software Maintenance

CITY COUNCIL GOAL: Goal #7: Maintain Fiscal Responsibility

COMPREHENSIVE PLAN ELEMENT(s): Parks, Public Spaces and Facilities
Goal #1 - Well-maintained public infrastructure

BACKGROUND:
In August 2003, the City entered into an Enterprise Agreement with Microsoft. The Microsoft Enterprise Agreement allows the City to purchase licenses and software assurances, for a core group of applications for the organization and use on our servers from Microsoft Corporation. The applications that are included in the City’s agreement are as follows: Microsoft Office 365 Professional (810), Visio (10), Project client access licenses (22) Project Server (1), Microsoft desktop operating system upgrades (455), virtual desktop operating system upgrades (400), Windows Server operating systems (19), MS SQL Standard (15), MS SQL Enterprise (12), Enterprise Windows client access licenses (600), Azure Active Directory (600), and Remote Desktop client access licenses (15). Software assurance allows the City to receive the latest version of software, support, training, software utilities, and planning services for the products while under the agreement.

The current Microsoft Enterprise Agreement expires October 2018.

Technology Services is requesting approval from Council to renew the Microsoft Enterprise Agreement for one year, through the State Department of Information Resources contract DIR-SDD-2503 held by SHI Government Solutions for $269,324.50. The renewal will be effective October 1, 2017 through September 30, 2018.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING THE ANNUAL RENEWAL OF THE MICROSOFT ENTERPRISE AGREEMENT WITH SHI UNDER DIR-SDD-2503 FOR SOFTWARE LICENSES IN THE AMOUNT OF $269,324.50; AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS RELATED TO THE RENEWAL OF THIS AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The annual renewal of the Microsoft License Agreement (the “Agreement”) for software licenses in the amount of $269,324.50 is approved.

PART 2. The City Manager, Bert Lumbreras is authorized to execute the appropriate documents related to the renewal of this Agreement 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 17th day of October 2017

John Thomaides
Mayor

Attest:

Jamie Lee Case,
City Clerk
Hi,

I noticed that your Enterprise Agreement is coming up for renewal and an anniversary payment is due soon. I wanted to get this quote out in advance. Please review and let me know if you have any questions.

Thanks.

---

**Pricing Proposal**

**Quotation #:** 14112675

**Description:** Microsoft EA - 7509358 - Year 3 Payment

**Created On:** Sep-14-2017

**Valid Until:** Sep-29-2017

---

**City of San Marcos**

**Kayla Lamm**
630 E. Hopkins St.
San Marcos, TX 78666
UNITED STATES
Phone: (512) 393-8124
Fax: Email: klamm@sanmarcostx.gov

**Inside Account Manager**

**Jeff Rosen**
1301 South Mo-Pac Expressway
Suite 375
Austin, TX 78746
Send PO to: Texas@shi.com
Phone: 800-870-6079 ext 8686150
Fax: (512)732-0232
Email: Jeff_Rosen@shi.com

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**Click here to order this quote**

All Prices are in US Dollar(USD)

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**Total** | **$251,433.60**

**Additional Comments**

The Products offered under this proposal are subject to the [SHI Return Policy](#), unless there is an existing agreement between SHI and the Customer.
Below you will find your recent quote request. If you have any additional questions or concerns regarding this quote, please feel free to contact me at your earliest convenience.

Thanks,
Jonathan Gaudet

Inside Account Manager
Jonathan_Gaudet@shi.com
Office - 732 868 5979
Fax - 732 868 5980

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**CITY OF SAN MARCOS**

**Kevin Harber**
FINANCE DEPT-A/P
630 E. HOPKINS STREET
SAN MARCOS, TX 78666
United States
Phone: 512-393-8186
Fax: 512-393-8186
Email: kharber@sanmarcostx.gov

---

**Inside Account Manager**

**Jonathan Gaudet**
1301 S. MoPac Expressway, Suite 375
Austin, TX 78746
Phone: (800) 870-6079 Option 2
Fax: 512-732-0232
Email: Jonathan_Gaudet@shi.com

---

**Click here** to order this quote

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All Prices are in US Dollar(USD)

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**Total** $17,890.90

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**Additional Comments**

Thank you for choosing SHI-GS! To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional Information including Hardware, Software and Services Contracts, please contact an SHI-GS Inside Sales Representative at (800) 870-6079.

SHI Government Solutions, Inc. is 100% Minority Owned, Woman Owned Business.

TAX ID# 22-3695478; DUNS# 14-724-3096

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The Products offered under this proposal are subject to the SHI Return Policy, unless there is an existing agreement between SHI and the Customer.
AGENDA CAPTION:
Consider approval of Resolution 2017-158R, approving a contract between the City and Hays County for the City’s provision of Library Services to residents of Hays County; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.

Meeting date: October 17, 2017

Department: Library

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Provide for the efficient and effective delivery of services.

BACKGROUND:
Hays County has appropriated a total of $225,000 for library services in FY 2018. This funding will be distributed among the five public libraries in Hays County. Our library will receive $85,000, which is 38% of the total appropriation. The libraries in Wimberley, Buda, Kyle, and Dripping Springs will each receive $35,000. This is an increase of $5,000 per library.

The county is requesting approval of the contract before the funds are released to the city. The contract calls for the library to provide free library services to Hays County residents and submit quarterly financial reports to the county. If the city does not approve the contract, county residents who live outside the city limits would have to pay a fee in order to borrow materials from the library. Current library card fees are $25.50 for a three-month, full-service card or $50.75 for a year-long card. A limited-service card is also available for $10.25.

About 28% of our cardholders reside in the county, but outside of our city limits. This is a decrease from previous years (last year was 34%). It is difficult to estimate what percentage of those cardholders would actually purchase a non-resident card. By ordinance, children in our school district are eligible for free library cards which family members can share. The library also participates in a statewide reciprocal borrowing program known as TexShare. These factors limit our ability to raise revenue through individual library card fees. It is also labor intensive to collect thousands of individual card fees rather than taking a lump-sum payment from the county.

On September 25, 2017, the library board discussed these issues and recommended accepting the county funds and continuing to provide library services to county residents on a contractual basis.
RESOLUTION NO. 2017- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A CONTRACT BETWEEN THE CITY AND HAYS COUNTY FOR THE CITY’S PROVISION OF LIBRARY SERVICES TO RESIDENTS OF HAYS COUNTY; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached Library Services Agreement is hereby approved.

PART 2. The City Manager or his designee is authorized to sign the Library Services Agreement on behalf of the City.

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

ADOPTED on October 17, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
STATE OF TEXAS

COUNTY OF HAYS

SECTION I.  PARTIES TO THE CONTRACT

This contract is made and entered into by and between the County of Hays, hereinafter referred to as "County", represented by County Judge Bert Cobb, M.D., and the City of San Marcos hereinafter referred to as "Contractor" represented by Diane Insley, Library Director. The parties hereto have severally and collectively agreed and by execution hereof are bound to the mutual obligations and to the performances and accomplishment of the tasks hereinafter described. Failure to comply with any item(s) of this contract can delay future quarterly payments until the item(s) of non-compliance is resolved.

SECTION II.  CONTRACTOR PERFORMANCE

The Contractor shall provide library services to Hays County residents.

SECTION III.  CONTRACT PERIOD

The period for performance of this contract shall commence October 1, 2017 and shall terminate September 30, 2018.

SECTION IV.  COUNTY OBLIGATION

Notwithstanding any other provision of this contract, the total amount paid by the County to the Contractor under this contract shall not exceed the sum of $85,000.

SECTION V.  REPORTS

The parties acknowledge that the funds expended under this contract are public funds that must be carefully monitored to ensure proper distribution. The County is legally obligated pursuant to the Texas Constitution to accurately report the manner in which the public funds are expended. To meet this requirement, the Contractor must submit a financial status report on the form attached hereto and incorporated as Exhibit “A” to the Hays County Auditor on the following dates.

January 26, 2018 for 1st quarter report (October 1 through December 31, 2017)
April 27, 2018 for 2nd quarter report (January 1 through March 31, 2018)
July 27, 2018 for 3rd quarter report (April 1 through June 30, 2018)
October 26, 2018 for 4th quarter report (July 1 through September 30, 2018)

THE CONTRACTOR IS HEREBY NOTIFIED THAT THE FAILURE TO SUBMIT THE FINANCIAL STATUS REPORTS ON THE DATES NOTED ABOVE MAY RESULT IN THE AUTOMATIC TERMINATION OF THIS CONTRACT.

SECTION VI.  COUNTY MONITORING

The Contractor shall permit County to inspect and shall make available to the County for inspection any or all pertinent records, files, information or other written material maintained by Contractor or any person or other entity with whom any portion of the performance hereunder has been subcontracted. The Contractor shall permit County free access to all premises under its control or under the control of any person or entity with whom any portion of the performance hereunder has been subcontracted.
SECTION VII. SUBCONTRACTS

The Contractor shall subcontract for the performances specified herein only where such subcontracts and the subcontractors are expressly specified herein or with the prior written approval of such subcontracts and subcontractors by the County. The Contractor, in subcontracting any of the performances hereunder, shall legally bind subcontractors to perform subject to all the duties, requirements, and obligations specified of Contractor herein with respect to such performance or any portions thereof.

In no event shall any provision of this section, specifically including the requirement that the Contractor obtain the prior approval of the County on the Contractor's subcontracts, be construed as relieving Contractor of the responsibility for ensuring that the performance rendered under all subcontracts are rendered so as to comply with all the terms and provisions of this contract as if the performance rendered were rendered by Contractor hereunder.

SECTION VIII. POLITICAL ACTIVITY

None of the performance rendered hereunder shall involve, and no portion of the funds received by the Contractor hereunder shall be used for, any partisan political activity (including, but not limited to, an activity to further the election or defeat of any candidate for public office) or any activity undertaken to influence the passage, defeat or final content of legislation.

SECTION IX. CONFLICT OF INTEREST

No official or employee of the County and no employee of the Contractor, and no member of the Contractor's governing board or body, and no person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall participate in any decision relating to this contract which affects his or her personal pecuniary interest.

SECTION X. COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable laws, ordinances, codes and regulations of the state, local and federal governments.

SECTION XI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the County is contracting with the Contractor as an Independent Contractor and that the Contractor as such, agrees to hold the County harmless and to indemnify it from and against any and all claims, demands and causes of action of every kind and character which may be asserted by any third party occurring or in any way incident to, arising out of, or in connection with the services to be performed by the Contractor under this contract.

SECTION XII. EQUAL OPPORTUNITY

A. Nondiscrimination

The Contractor assures that no person shall, on the ground of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part under this agreement or otherwise under the Contractor's control.

B. Non-segregated Facilities

The Contractor certifies that all employee facilities under its control are provided in such a manner that segregation, whether by habit, local custom, or otherwise, on the basis of race, religion, color, or national origin, cannot result. Further, the Contractor will not assign or permit employees to perform services at any location under its control where facilities are segregated. Identical certifications from any proposed subcontractors will be obtained by the Contractor as a condition of subcontract award.

C. Employment (Race, Religion, Color, Sex or National Origin)
1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth requirements of these nondiscrimination provisions.

2. The Contractor will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that allqualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

3. The Contractor will comply with all applicable equal opportunity laws, rules, regulations and orders.

4. The Contractor will furnish all information and reports and will permit access to its books, records, and accounts for purposes of investigation to ascertain compliance with equal opportunity and affirmative action.

5. In the event of the Contractor's noncompliance with the equal opportunity conditions of this contract, this contract may be canceled, terminated, or suspended in whole or in part; the Contractor may be declared ineligible for further contracts and such other sanctions may be imposed and remedies invoked as otherwise provided by law.

(Physical or Mental Handicap)

6. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employee is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(Age)

7. The Contractor will not discriminate in employment against any person because of their age or specify, in solicitations or advertisements, a maximum age limit except and unless it is based upon a bona fide occupational qualification, retirement plan or statutory requirement.

D. Real and Personal Property

The Contractor agrees that, as owner, lessee, assignee or managing agent of real or personal property, it will not refuse to rent, lease, sell or otherwise deny such property to any person(s) because of race, color, religion, sex or national origin; nor will the Contractor discriminate in the terms or privileges of the rental, lease or sale or in the furnishing of services in connection therewith. Advertisements, solicitations, notices, statements, or circulations pertaining thereto will not limit, prefer, or discriminate on the basis of race, color, religion, sex or national origin.

E. Minority and Female Entrepreneurship

Consonant with and in furtherance of equal opportunity under law, the Contractor agrees to consider and make reasonable use of minority-owned and female-owned businesses in the procurement of goods and service, in the use of real or personal property, and in contracting for construction. In all instances, affirmative emphasis will be given to minority-owned and female-owned businesses offering comparable quality and value. The Contractor will similarly require equal opportunity/affirmative action on behalf of minority-owned and female-owned businesses in its financial agreements.
SECTION XIII. ORAL AND WRITTEN AGREEMENTS

All oral or written agreements, relating to the subject matter of this contract and which were made prior to the date of commencement specified in Section IV, between the Contractor and the County have been reduced to writing and are contained herein.

SECTION XIV. AMENDMENTS

Any alterations, additions, or deletions to the terms of this contract shall be by amendment hereto in writing and executed by both parties hereto except as may be expressly provided for in some other manner by the terms of this contract.

SECTION XV. LEGAL AUTHORITY

A. The Contractor assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passes or taken giving the Contractor legal authority to enter into this contract and to perform the service Contractor has obligated itself to perform under this contract.

B. The person or persons signing this contract on behalf of the Contractor warrant and guarantee to having been duly authorized by the Contractor to execute with contract on behalf of the Contractor to validly and legally bind Contractor to all terms, performances and provisions herein set forth.

C. The County shall have the right, at its option, to either temporarily suspend or permanently terminate this contract if there is any dispute as to the legal authority of either the Contractor or the person signing this contract to enter into this contract. Contractor is liable to County for money it has received from the County for performance of the provisions of this contract, if the County has suspended or terminated this contract for the reason set aside in this contract.

SECTION XVI. AUDIT

At its sole discretion, the County may arrange for an independent audit of all funds received under this contract by the County audit staff, or a certified public accountant.

SECTION XVII. PUBLIC PURPOSE

The Contractor shall use the funds provided by the County hereunder for the provision of library services to the public, including Hays County residents. The Contractor recognizes that, in lieu of creating a “County Free Library”, the County is hereby contracting for library services to be provided to the general public.

SECTION XVIII. EARLY TERMINATION

A. Either of the parties hereto shall have the right, in such party's sole discretion and at such party's sole option, to terminate and bring to an end all performances to be rendered under the terms hereof by notifying the other party hereto in writing of such termination at least thirty days prior to the effective date of such termination. Should neither party exercise their right to terminate, this contract shall terminate in accordance with the provision of Section III.

B. Upon termination or receipt of notice to terminate whichever occurs first, the Contractor shall cancel, withdraw or otherwise terminate, any outstanding orders or subcontracts which relate to the performance of this contract and shall otherwise cease to incur costs hereunder.

C. In no event shall the County be liable to the Contractor or the Contractor's creditors for expenses incurred after termination date.

D. In the event that the Contractor has not exhausted the amount of money allocated to it in Section IV at the date of termination, the Contractor shall return to the County within thirty (30) days and in the manner prescribed by the County all unexpended and uncommitted funds.
WITNESS OUR HANDS EFFECTIVE THIS _______ OF _________________, 2017.

__________________________
Contractor Signature

__________________________
Type or print name

Approved and accepted on behalf of the County of Hays.

__________________________
Debbie Gonzales Ingalsbe
County Commissioner Pet. 1
On Behalf of Hays County Judge
Date: August 30, 2017

To: Hays County Community Service Agencies

From: Bert Cobb, M.D.
Hays County Judge

Re: FY 2018 Budget

The Hays County Commissioner’s Court has reviewed your request for funding for our FY 2018 budget cycle. The proposed funding for your agency is stated at the bottom of this memo.

A public hearing will be held on September 19, 2017 at 1:00 p.m. in the Commissioner’s Courtroom of the Hays County Courthouse located at 111 E. San Antonio Street on the 3rd floor. Adoption of the budget is scheduled to occur immediately following the public hearing. If you have any questions regarding your budget, please contact Vickie Dorsett in the Auditor’s Office @ 512-393-2275 or my office prior to the public hearing.

Thank you for serving the citizens of Hays County. Your involvement in our community is greatly appreciated.

Thank you,

[Signature]

Bert Cobb, M.D.
Hays County Judge

NAME OF AGENCY: San Marcos Public Library

FY 2018 BUDGET REQUEST: $110,000

FY 2018 BUDGET AWARD: $85,000
File #: Res. 2017-159R, Version: 1

AGENDA CAPTION:
Consider approval of Resolution 2017-159R, adopting the U.S. Conference of Mayor's Compact to Combat Hate, Extremism, and Bigotry; and declaring an effective date.

Meeting date: October 17, 2017

Department: City Clerk's Office

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
This item was placed on the October 2, 2017 agenda for discussion by Mayor Thomaides. The City Council provided consensus to move forward with formally adopting the compact.

The following information is from the Mayor's Compact website: <https://mayorscompact.org>

The Anti-Defamation League and The United States Conference of Mayors are launching a new initiative to fight extremism and bigotry and to promote the fundamental principles of justice and equality that define America.

The August 2017 events in Charlottesville showed that American cities need to take the lead on ending domestic extremism and violent bigotry. More than 270 mayors have signed a compact to make cities safer for all who live there, and to promote the fundamental principles of justice and equality that define our nation.

Mayors and their cities must continue to be a beacon for inclusion, tolerance, and respect for all. We will continue to create stronger cultures of kindness and compassion in our communities, and expect our federal and state partners to join us in this endeavor.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ADOPTING THE US CONFERENCE OF MAYOR’S COMPACT TO COMBAT HATE, EXTREMISM, AND BIGOTRY; AND DECLARING AN EFFECTIVE DATE.

RECATALS:

1. The United States of America is a nation founded on principles of liberty and justice for all. We treasure our freedom, our commitment to equality, and our democratic values. These values are what has made America great for more than 240 years.

2. Individual Americans can, and often do, agree to disagree with each other on issues large and small. Differences should be celebrated. Our freedom of speech and the other rights enshrined in the First Amendment are among our most cherished freedoms.

3. But our diverse and pluralistic nation has endured and thrived for centuries because we have been able to reject the forces of extremism and bigotry that could tear us apart. The country has a long history of striving to be a more perfect union. In the face of challenges and division, we have stood together – Americans of different races, ethnicities, religions, sexual orientations, nationalities, and political persuasions – and we have found ways to move forward.

4. Decades, America’s mayors have taken a strong position in support of civil rights and in opposition to racism and discrimination of all kinds. In the 54 years since the murder of Medgar Evers in Jackson, Mississippi, the bombing of the 16th Street Baptist Church in Birmingham, Alabama, which killed four young girls, and the March on Washington led by Dr. Martin Luther King, Jr., much progress has been made in addressing past grievances and in ensuring the civil and human rights of all Americans.

5. Across the country, many mayors have spoken out against discrimination and injustice when it has occurred and have undertaken efforts to build tolerance and understanding within their communities. In recent years, cities have undertaken efforts to integrate immigrants into their communities and have adopted a variety of policies to include fully and treat equitably their LGBT residents.

6. Today, however, we are being challenged again. Dark forces of extremism and violent bigotry are rearing their ugly heads. We are now seeing efforts in our states and at the highest levels of our government to weaken existing civil rights policies and reduce their enforcement. We have seen an increase in hate violence, xenophobic rhetoric, and discriminatory actions that target Muslims, Jews, and other minorities. We will not permit them to succeed.
7. Mayors and their cities must continue to be a beacon for inclusion, tolerance, and respect for all. We will continue to create stronger cultures of kindness and compassion in our communities, and expect our federal and state partners to join us in this endeavor.

8. The Anti-Defamation League and The United States Conference of Mayors are launching a new initiative to fight extremism and bigotry and to promote the fundamental principles of justice and equality that define America.

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

PART 1. The US Conference of Mayor’s Compact to Combat Hate, Extremism, and Bigotry is hereby adopted.

PART 2. The Compact attached hereto as Exhibit "A" is hereby adopted.

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

ADOPTED on October 17, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
EXHIBIT "A"

MAYOR’S COMPACT TO COMBAT HATE, EXTREMISM AND BIGOTRY
1. **EXPRESSLY REJECTING EXTREMISM, WHITE SUPREMACY AND ALL FORMS OF BIGOTRY**
Mayors will use the bully pulpit to speak out against racism, extremism, xenophobia, white supremacy and all forms of bigotry, and those who espouse such ideologies, and promote community conversations around these issues as needed.

2. **DENOUNCING ALL ACTS OF HATE WHEREVER THEY OCCUR**
Mayors will publicly denounce specific acts of hate and support efforts to punish bias-motivated violence to the fullest extent of the law, and provide comfort and assistance to victims of hate crimes and discrimination.

3. **ENSURING PUBLIC SAFETY WHILE PROTECTING FREE SPEECH AND OTHER BASIC CONSTITUTIONAL RIGHTS**
Mayors will protect public safety while safeguarding free speech and other basic constitutional rights through the use of appropriate time, place, and manner restrictions. This might include encouraging alternative rally sites and placing limits on the rights of protestors to bring weapons to political rallies.

4. **CALLING FOR FULLY-RESOURCED LAW ENFORCEMENT AND CIVIL RIGHTS INVESTIGATIONS OF DOMESTIC TERRORISM AND HATE CRIMES**
Mayors will work to ensure that local police departments have the financial resources necessary to prevent, respond to and investigate domestic terrorism and hate crimes, and work with federal authorities when appropriate to ensure that the interests of justice are served.

5. **ELEVATING AND PRIORITIZING ANTI-BIAS AND ANTI-HATE PROGRAMS IN OUR NATION'S SCHOOLS**
Mayors will encourage schools to implement anti-bias and anti-hate content in their curricula and/or through extra-curricular activities. ADL and other groups have materials and training programs that can help make this happen.

6. **SUPPORTING TARGETED COMMUNITIES AND BRINGING TOGETHER CIVIC AND COMMUNITY LEADERS TO BUILD TRUST**
Mayors will reach out proactively to civil rights leaders, clergy and other community leaders to ensure that they are engaged and actively involved in efforts to build trust across neighborhood and community lines and minimize intergroup tensions.

7. **CELEBRATING DIVERSITY, PROMOTING INCLUSIVITY AND CHALLENGING BIAS**
Mayors will support the integration of immigrants and other new residents into the community, encourage community activities which celebrate diversity and educate city residents about the different cultures that compose a city’s population, and work with creative partners to use various electronic and print media outlets to promote public messages celebrating inclusivity and challenging bias.

8. **PROMOTING LAW ENFORCEMENT TRAINING ON RESPONDING TO AND REPORTING HATE INCIDENTS, HATE CRIMES AND DOMESTIC TERRORISM**
Mayors will encourage their police departments to participate in training programs offered by ADL and others that address how to identify and respond to hate incidents, hate crimes, and domestic terrorism. Members will also encourage the collection of data on such crimes and the
provision of the data to appropriate state authorities and the FBI in compliance with the Federal Hate Crime Statistics Act.

9. **ENCOURAGING RESIDENTS IN THEIR COMMUNITIES TO REPORT HATE INCIDENTS AND CRIMES, INCLUDING USING HOT LINES AND ONLINE TOOLS**
   Mayors will encourage residents – both victims and witnesses – to report hate incidents and hate crimes to local authorities, and provide the tools necessary to facilitate such reporting, including hot lines and online tools, as possible and appropriate.

10. **MAINTAINING CIVIL RIGHTS ENFORCEMENT AND STRENGTHENING HATE CRIME LAWS WHEN NECESSARY**
    Mayors will work with executive and legislative partners at the federal and state levels to assure that civil rights laws are aggressively enforced, existing hate crime laws are strengthened as needed, and new laws are enacted to ensure that all hate crimes are prosecutable in their jurisdictions to the greatest extent possible.
AGENDA CAPTION:
7:00PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2017-58, amending Chapter 4, Article 3 of the Land Development Code, Subpart B, and Section 1.5.4 of the San Marcos Smartcode, Subpart C, of the City Code, by adding requirements for the City Council’s approval of a Conditional Use Permit or a Warrant for Purpose Built Student Housing, including the requirement that, as a condition of the approval, the lease offered to a student shall incorporate provisions ensuring that, when a rental unit is unavailable for occupancy as of the first day of the lease term, the landlord will provide temporary alternate housing or allow the student to terminate the lease without penalty; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date; and consider approval of Ordinance 2017-58, on the first of two readings.

Meeting date: October 17, 2017

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL: Beautify and Enhance the Quality of Place

COMPREHENSIVE PLAN ELEMENT(s): Neighborhoods and Housing; Goal #2 Housing Opportunities for Students of Texas State University in Appropriate Areas and Create and Implement a Plan to Accomplish this Vision.

BACKGROUND:
City Council provided direction during the September 5th City Council meeting to pursue an amendment to both the Land Development Code and the SmartCode in order to include a required condition on all Warrants or Conditional Use Permits for Purpose Built Student Housing.

The Planning and Zoning Commission unanimously approved the ordinance. Discussion during the meeting included expanding the provisions to all multi-family leases.

The purpose of the proposed conditions are to protect students in the event of a delay in occupancy and include the following:
1) Any unit leased before the issuance of a certificate of occupancy shall include a late delivery provision providing the tenant the choice of:
   
   a) Accepting temporary alternate safe, decent and sanitary housing provided by the Landlord in the City or within seven miles of the apartment at no additional cost to the tenant; or
   
   b) terminating the lease with no financial penalty and reimbursement of deposits and pre-paid items within 10 days.

2) The form of lease shall be reviewed by the city before execution and, in the event of a late delivery, all correspondence communicating information about the late delivery or the student’s options for temporary housing needs to be reviewed and approved by the City before being sent.
ORDINANCE NO. 2017-


RECITALS:

1. The Planning and Zoning Commission has considered and recommended amendments to the regulations regarding Purpose Built Student Housing under the Land Development Code, Subpart B of the City Code (the “Land Development Code”), and the San Marcos SmartCode, Subpart C of the City Code (the “SmartCode”).

2. The City Council has considered the recommendations of the Planning and Zoning Commission.

3. All requirements for amending the Land Development Code and SmartCode have been satisfied.

4. The City Council hereby finds and determines that the adoption of amendments to the regulations regarding Purpose Built Student Housing is in the interest of the public health, welfare and safety.

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

SECTION 1. The Land Development Code is amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethroughs.
SECTION 2. The Land Use Matrix in Section 4.3.1.2 is amended to read as follows:

| Types of Land Uses | PD | AR | SF-R | SF-FL | SF-6 | SF-7.5 | D | DR | TH | PHZ | MS-HI | MIH | MH | MU | RMI | P | NC | OP | CC | GC | HC | CBA | LI | BI |
|--------------------|----|----|------|-------|------|--------|---|----|----|-----|-------|-----|----|----|-----|----|----|----|-----|----|----|----|----|----|----|
| Purpose Built Student Housing | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* | C* |

LEGEND

P - The land use is permitted by right in the zoning district indicated.
- The land use is prohibited in the zoning district indicated (Blank).
C - The land use may be approved as a Conditional Use Permit (CUP) in the zoning district indicated.
* Conditional Use Permit receives a recommendation by Planning and Zoning Commission and finally approval decided by City Council.

SECTION 3. Chapter 4, Article 3 is amended by adding a new Section 4.3.4.9 to read as follows:

**Section 4.3.4.9 Conditional Use Permits for Purpose Built Student Housing**

(a) **Approval.** The City Council shall hold a public hearing and finally decide all conditional use permit requests for purpose built student housing as a negotiated agreement after review and a recommendation has been made by the Planning and Zoning Commission. A conditional use permit request for purpose built student housing shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the Planning and Zoning Commission recommends denial of the request.

(b) **Late Delivery Lease Provision.** Conditions for a conditional use permit for purpose built student housing shall include the following:

(1) Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent, and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos, or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”
a. Before execution of any such lease, the owner or operator of the purpose built student housing allowed by a conditional use permit shall, first, provide a copy of its form lease to the City for review and written approval consistent with this subsection.

b. In the event of a late delivery, the owner or operator of the purpose built student housing allowed by a conditional use permit shall, first, provide a copy of any correspondence communicating information about the late delivery and/or the student’s options for temporary housing to the City for review and written approval.

SECTION 4. Section 1.5.4 of the SmartCode is amended to add new subsection (a) to read as follows.

1.5.4. The City Council shall hold a public hearing and finally decide all Warrant requests as a negotiated agreement for purpose built student housing after review and a recommendation has been made by the P&Z. A Warrant request for purpose built student housing shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the P&Z recommends denial of the request.

a. Conditions for a Warrant for purpose built student housing shall include the following:

i. Any residential dwelling lease that is executed and effective before the issuance of a certificate of occupancy by the City enabling the tenant to occupy the premises shall include a late delivery provision providing as follows:

“In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of: 1) accepting temporary safe, decent and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or 2) terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.”

ii. Before execution of any such lease, the owner or operator of the purpose built student housing allowed by a Warrant shall, first, provide a copy of its form lease to the City for review
iii. In the event of a late delivery, the owner or operator of the purpose built student housing allowed by a Warrant shall, first, provide a copy of any correspondence communicating information about the late delivery and/or the student’s options for temporary housing to the City for review and written approval.

SECTION 5. 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 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 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

Attest: Approved:

Jamie Lee Case Michael J. Cosentino
City Clerk City Attorney
CITY COUNCIL MEETING

Tuesday, October 17, 2017
Background

- 9/5/17 - City Council Direction Provided to pursue an amendment requiring conditions on Purpose Built Student Housing
- 9/26/17 - Planning Commission unanimously approves the amendment and included discussion about expanding the provisions to all multi-family leases.
Approval Process:

• The City Council finally decides a request as a negotiated agreement after a recommendation by the Planning and Zoning Commission.

• A conditional use permit shall not become effective except by the favorable vote of three-fourths of all members of the City Council when the Planning and Zoning Commission recommends denial of the request.
Late Delivery Provisions:

In the event the Leased Premises are unavailable for occupancy on or before the commencement date of this Lease, Landlord shall offer Tenant the choice of:

1) Accepting temporary safe, decent, and sanitary housing, provided by Landlord, at an alternate location within the City of San Marcos, or within a seven mile radius of the Leased Premises, with Tenant remaining bound by the terms of the Lease; or

2) Terminating the Lease with no financial penalty and with full reimbursement to Tenant of all deposits and pre-paid items within 10 days.
Review of Lease and Correspondence:

The owner or operator of the Purpose Built Student Housing is required to provide a copy of the lease for review and approval by the City.

The owner or operator is required to provide a copy of all correspondence about a late delivery for review and approval by the City.
AGENDA CAPTION:
7:00PM Receive a Staff presentation and hold a Public Hearing to receive comments for or against Resolution 2017-160R approving Substantial Amendment No. 4 to the Community Development Block Grant-Disaster Recovery (CDBG-DR) Action Plan to include an additional allocation of CDBG-DR funding as published in the August 7, 2017 Federal Register in the amount of $8,714,000 for a total of $33,794,000 in CDBG-DR funding; approving the allocation of the use of CDBG-DR funding to projects and activities; authorizing the City Manager 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 2017-160R.

Meeting date: October 17, 2017

Department: Planning and Development Services

Funds Required: N/A
Account Number: N/A
Funds Available: N/A
Account Name: N/A

CITY COUNCIL GOAL:
Goal #5 - Maintain and Improve the City's Infrastructure.
Goal #8 - Provide for the efficient and effective delivery of services.

COMPREHENSIVE PLAN ELEMENT(s): [add the Plan elements and Goal # and Objective(s)]

- Environment and Resource Protection - Goal #4 - A population prepared for and resilient to man-made and natural disasters.
- Neighborhoods & Housing - Goal #1 Neighborhoods that are protected and enhanced in order to maintain a high quality of life and stable property values.

BACKGROUND:
The City was initially awarded $25,080,000 in CDBG-DR funds to address the impact of the floods of 2015 on the affected neighborhoods through a Housing Program and an Infrastructure Program. The August 7th, 2017 Federal Register announced the award of an additional, $8,714,000 in CDBG-DR funds to the City for a total of $33,794,000. The City had 90 days to respond to HUD with a plan to allocate the new funds.
The City would like to allocate the new funds to the following projects:

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount of New Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure</td>
<td>$6,971,200</td>
</tr>
<tr>
<td>Administration</td>
<td>$435,700</td>
</tr>
<tr>
<td>Planning</td>
<td>$1,307,100</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$8,714,000</strong></td>
</tr>
</tbody>
</table>

The City conducted a feasibility study to determine the infrastructure projects that were damaged due to the flood events and ways to rebuild the infrastructure to ensure resiliency for the flooded areas in future potential floods. The Blanco Riverine Project was one of the projects identified as having a significant impact on reducing flooding in the community. It was not chosen initially because of the cost of the project which would have used all of the CDBG-DR infrastructure funds. At that time, other infrastructure projects were chosen that could be completed without other funding resources. Since then the Texas Water Development Board has agreed to partially fund the Blanco Riverine project and the City has been awarded additional CDBG-DR funds. The City will also contribute funds to make the project whole. The City anticipates that with the five infrastructure projects that floods will be mitigated to the 45-yr level. The Action Plan is being amended to add the Blanco Riverine Project. See the attached Revised Action Plan with changes in Section 3 Needs Assessment B. Infrastructure; Section 3 B.9 and 10. Section 4 A. Budget Table and Section VIII D. Infrastructure and behind Appendix J. Infrastructure Projects, and the project was identified in the Prioritization and Ranking Matrix. Additional information has been inserted in a narrative in Appendix J. Appendix I has been updated with the additional funds and performance measures

1. **Planning and Administration**

   In addition, the Planning Budget was increased by $1,307,100 to $5,069,100, and the Administration Budget was increased by $435,700 to $1,689,700 as shown in the Budget below. The Budget in Section 4 A has been revised to reflect the new amounts. Appendix I has been updated with the additional funds and performance measures.

2. **CDBG-DR Budget**

   In this amendment to the Action Plan, the Infrastructure Budget was increased by one project at a cost of $6,971,200. The Planning Budget was increased by $1,307,100 and the Administration Budget was increased by $435,700.
<table>
<thead>
<tr>
<th>Project/Activity</th>
<th>Budget Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Program 1. Owner-Occupied Rehab/Reconstruction 2. Rental Unit Rehab/Reconstruction</td>
<td>$5,000,000</td>
</tr>
<tr>
<td></td>
<td>$2,524,000</td>
</tr>
<tr>
<td></td>
<td>$5,000,000</td>
</tr>
<tr>
<td></td>
<td>$2,500,000</td>
</tr>
<tr>
<td></td>
<td>$4,190,000</td>
</tr>
<tr>
<td></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>
</tbody>
</table>
CDBG-DR
Amendment No. 4

Allocation of Additional Funds
Council Action:

Allocate **$8,714,000** of additional Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to eligible uses.
Eligible Uses

- Infrastructure
- Housing
- Economic Development
- Planning
- Administration of DR Program
# Citizen Outreach

<table>
<thead>
<tr>
<th>Activity</th>
<th>Date</th>
<th>Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newspaper Notice – Spanish and English</td>
<td>August 27, September 3 &amp; 10</td>
<td>San Marcos Daily Record</td>
</tr>
<tr>
<td>Press Release</td>
<td>August 31, 2017</td>
<td>Media</td>
</tr>
<tr>
<td>Website Notice – Spanish and English</td>
<td>August 27, 2017 to present</td>
<td><a href="http://www.smtxfloodrecovery.com">www.smtxfloodrecovery.com</a></td>
</tr>
<tr>
<td>YouTube – City Show</td>
<td>September 11, 2017</td>
<td><a href="https://youtu.be/uSY39aRPI60">https://youtu.be/uSY39aRPI60</a></td>
</tr>
<tr>
<td>Newspaper Article</td>
<td>Thursday, September 14, 2017</td>
<td>San Marcos Daily Record</td>
</tr>
<tr>
<td>Public Meeting</td>
<td>Thursday, September 14, 2017 – 6:00 pm</td>
<td>Activity Center</td>
</tr>
<tr>
<td>Blanco Gardens Block Captain Meeting</td>
<td>Saturday, September 23, 2017 – 10:30 am</td>
<td>CM Allen Public Housing Authority</td>
</tr>
<tr>
<td>National Night Out</td>
<td>Tuesday, October 3, 2017</td>
<td>CM Allen Public Housing Authority</td>
</tr>
<tr>
<td>Public Meeting</td>
<td>Thursday, October 12, 2017</td>
<td>Conway Park</td>
</tr>
<tr>
<td>Public Comments</td>
<td>Response</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Use the funds for additional infrastructure projects</td>
<td>Next Infrastructure Project Priority is Blanco Riverine.</td>
<td></td>
</tr>
<tr>
<td>Reimburse SM Public Housing Authority (SMPHA) for flood recovery expenses</td>
<td>Request sent to HUD in Washington. Waiting on determination.</td>
<td></td>
</tr>
<tr>
<td>Repair kitchens in single family home</td>
<td>Housing Program addresses kitchens impacted by the floods.</td>
<td></td>
</tr>
<tr>
<td>Speed up the Housing Program process</td>
<td>Working to satisfy federal requirements to have the funds released to the City.</td>
<td></td>
</tr>
<tr>
<td>Elevate homes</td>
<td>Housing Program can elevate houses currently.</td>
<td></td>
</tr>
<tr>
<td>Reimburse single family homeowners for housing repairs</td>
<td>HUD does not reimburse expenses, only Unmet needs.</td>
<td></td>
</tr>
<tr>
<td>Demolish Abandoned Homes</td>
<td>City Program in place. Eligible Activity.</td>
<td></td>
</tr>
<tr>
<td>Reimburse people for hotel stays</td>
<td>Ineligible use of CDBG-DR funds.</td>
<td></td>
</tr>
<tr>
<td>Rehabilitate a business</td>
<td>Activity not in Action Plan. Stringent commercial guideline requirements.</td>
<td></td>
</tr>
<tr>
<td>SMPHA Buyout and relocation of CM Allen Homes</td>
<td>Requested clarification from AECOM.</td>
<td></td>
</tr>
<tr>
<td>“Thank for what y’all do!”</td>
<td>Our pleasure.</td>
<td></td>
</tr>
<tr>
<td>Project/Activity</td>
<td>Original Allocation</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Infrastructure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Midtown/Aquarena Springs</td>
<td>$ 850,000</td>
<td></td>
</tr>
<tr>
<td>2. Blanco Gardens</td>
<td>$ 5,000,000</td>
<td></td>
</tr>
<tr>
<td>3. Clarewood/Barbara Drive</td>
<td>$ 2,500,000</td>
<td></td>
</tr>
<tr>
<td>4. Uhland Road</td>
<td>$ 4,190,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 12,540,000</td>
<td></td>
</tr>
<tr>
<td><strong>Housing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Owner-Occupied Rehab/Reconstruction</td>
<td>$ 5,000,000</td>
<td></td>
</tr>
<tr>
<td>2. Rental-Unit Rehab/Reconstruction</td>
<td>$ 2,524,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 7,524,000</td>
<td></td>
</tr>
<tr>
<td><strong>Planning</strong></td>
<td>15%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 3,762,000</td>
<td></td>
</tr>
<tr>
<td><strong>Administration</strong></td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 1,254,000</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 25,080,000</td>
<td></td>
</tr>
<tr>
<td>Project Category/Activity</td>
<td>Recommended Allocation</td>
<td>HUD Disaster Recovery Budget</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td><strong>Infrastructure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blanco Riverine Project</td>
<td>$ 6,971,200</td>
<td>$ 19,511,200</td>
</tr>
<tr>
<td><strong>Housing</strong></td>
<td>$ -0-</td>
<td>$ 7,524,000</td>
</tr>
<tr>
<td><strong>Planning</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flood Mitigation Plan</td>
<td>$ 1,307,100</td>
<td>$ 5,069,100</td>
</tr>
<tr>
<td><strong>Administration</strong></td>
<td>$ 435,700</td>
<td>$ 1,689,700</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$ 8,714,000</td>
<td>$ 33,794,000</td>
</tr>
</tbody>
</table>
RESOLUTION NO. 2017- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING SUBSTANTIAL AMENDMENT NO. 4 TO THE COMMUNITY DEVELOPMENT BLOCK GRANT–DISASTER RECOVERY (CDBG-DR) ACTION PLAN TO INCLUDE AN ADDITIONAL ALLOCATION OF CDBG-DR FUNDING AS PUBLISHED IN THE AUGUST 7, 2017 FEDERAL REGISTER IN THE AMOUNT OF $8,714,000 FOR A TOTAL OF $33,794,000 IN CDBG-DR FUNDING; APPROVING THE ALLOCATION OF THE USE OF CDBG-DR FUNDING TO PROJECTS AND ACTIVITIES; AUTHORIZING THE CITY MANAGER 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. 4 to the City of San Marcos Community Development Block Grant–Disaster Recovery (CDBG-DR) Action Plan as attached hereto.

PART 2. The City Manager 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 October 17, 2017.

John Thomaides
Mayor

Attest:

Jamie Lee Case
City Clerk
Public Notice
The Substantial Amendment No. 4 to the CDBG-DR Action Plan was posted from September 14, 2017 through October 17, 2017 using the following methods:
- A notice was posted to the City of San Marcos website, September 14, 2017.
- A legal notice ran in the San Marcos Daily Record newspaper three times, August 27, 2017; September 3, 2017; and September 10, 2017.
- An article ran in the San Marcos Daily Record newspaper, September 14, 2017.
- The public meeting and Public hearing were announced on the City’s Youtube Weekly show.

Please see the attached Notice in English and Spanish. The comment period was for 33 days.

Public Meeting
A Public Meeting was held September 14, 2017 at the Activity Center at 6:00 PM to discuss opportunities to address unmet needs from the floods of 2015 and the allocation of additional CDBG-DR funds in the amount of $8,714,000. The PowerPoint was in English and Spanish as well as the comment cards and eligible activity form. Notification of the meeting was given by same media documents mentioned in the Public notice section of this document.

Public Hearing
A public Hearing was held October 17, 2017 during the City Council meeting to address comments concerning Substantial Amendment No. 4.

Comments Received
Several comments were received and will be submitted with the Amendment including a request from the Housing Authority which is under consideration at the Washington, D.C. level.

City Council Approval
The City Council approved the Substantial Amendment No. 4 to the CDBG-DR Action Plan during the City Council meeting October 17, 2017.

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

1. Infrastructure Projects
   The City conducted a feasibility study to determine the infrastructure projects that were damaged due to the flood events and ways to rebuild the infrastructure to ensure resiliency for the flooded areas in future potential floods. The Blanco Riverine Project was one of the projects identified as having a significant impact on reducing flooding in the community. It was not chosen initially because of the cost of the project which would have
used all of the CDBG-DR infrastructure funds. At that time, other infrastructure projects were chosen that could be completed without other funding resources. Since then the Texas Water Development Board has agreed to partially fund the Blanco Riverine project and the City has been awarded additional CDBG-DR funds. The City will also contribute funds to make the project whole. The City anticipates that with the five infrastructure projects that floods will be mitigated to the 45-yr level. The Action Plan is being amended to add the Blanco Riverine Project. See the attached Revised Action Plan with changes in Section 3 Needs Assessment B. Infrastructure; Section 3 B.9. and 10. Section 4 A. Budget Table and Section VIII D. Infrastructure and behind Appendix J. Infrastructure Projects, and the project was identified in the Prioritization and Ranking Matrix. Additional information has been inserted in a narrative in Appendix J. Appendix I has been updated with the additional funds and performance measures.

2. Planning and Administration
In addition, the Planning Budget was increased by $1,307,100 to $5,069,100, and the Administration Budget was increased by $435,700 to $1,689,700 as shown in the Budget below. The Budget in Section 4 A has been revised to reflect the new amounts. Appendix I has been updated with the additional funds and performance measures.

3. CDBG-DR Budget
In this amendment to the Action Plan, the Infrastructure Budget was increased by one project at a cost of $6,971,200. The Planning Budget was increased by $1,307,100 and the Administration Budget was increased by $435,700.

<table>
<thead>
<tr>
<th>Project/Activity</th>
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<tbody>
<tr>
<td>Housing Program</td>
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<tr>
<td>1. Owner-Occupied Rehab/Reconstruction</td>
<td>$5,000,000</td>
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<td>Infrastructure Projects</td>
<td></td>
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<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>
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<tr>
<td>4. Uhland Road</td>
<td>$4,190,000</td>
</tr>
<tr>
<td>5. Blanco Riverine</td>
<td>$6,971,200</td>
</tr>
<tr>
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Posting
The Substantial Amendment No. 4 to the CDBG-DR Action Plan was posted to the website, smtxfloodrecovery.com and to DRGR.

Approved for submittal to HUD: Bert Lumbreras, City Manager
Submitted to HUD for approval: October 20, 2017
HUD approval received: __________________
Posted on City Website: __________________
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Approved for submittal to HUD: Bert Lumbreras, City Manager
Submitted to HUD for approval: October 20, 2017
HUD approval received: 
Posted on City Website: 
AGENDA CAPTION: Consider approval of Ordinance 2017-56, on the first of two readings, 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.

Meeting date: October 17, 2017

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

BACKGROUND: The State Legislature passed and the Governor signed SB1004 on June 9, 2017. The law was effective on Sept. 1, 2017 and is codified in Chapter 284 of the Texas Local Government Code. Chapter 284 defines what cities can and cannot implement related to Small Cell Networks to be placed in public right-of-way. Small cells are defined as low-powered, base stations that provide wireless coverage for areas ranging in size from homes and offices to stadiums, hospitals, and other outdoor spaces. Wireless service providers often use small cells to provide connectivity in areas that present coverage gaps created by buildings, towers, and challenging terrain. Small cells are a type of network node.

The legislation generally imposes strict limitations on what Cities can require of network providers, prohibits denial of connections to City owned infrastructure such as utility poles, street lights, traffic signal masts, and other facilities in the right-of-way. It also establishes maximum attachment fee levels for review, permitting and right-of-way use. The new legislation caps the annual right-of-way fee the city can charge to $250 per network node. This Ordinance is intended to define standards and outline processes for the permitting, installation and operation of Small Cell Networks in the City within the extent allowed by the new law.

The new legislation allows the City to require that certain concealment measures be imposed in Historic....
Districts and other areas where the City maintains and enforces unique design and aesthetic standards. These designated areas are called Design Districts. The proposed ordinance identifies the Downtown Business Area and areas zoned T5 and T5-D as designated Design Districts. The City's seven Historic Districts are also designated as areas where concealment measures are followed. A map of the City's Historic Districts is attached for your reference.
ORDINANCE NO. 2017- _____

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.

(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:
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.

An analysis showing that the proposed wireless facility will not cause any interference with city public safety radio system or traffic signal light system.

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.

A proposal to conceal or camouflage the network node, node support pole, related equipment, or any portion thereof, if applicable;

City pole identification information, if applicable;

Written consent from owners of non-city owned infrastructure; and

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 7, 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

**Chapter 284** means Tex. Loc. Gov. Code, Chapter 284.

**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.  

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.

**D. New Node Support Poles.**

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.
Deployment of Network Nodes in Public Right of Way

SB 1004/Chapter 284, Texas Local Government Code
Effective 9/1/17
SB 1004

- Intended to be statewide, uniform application of Chapter 284 for installation of network nodes in a public right-of-way (ROW) controlling over any other common law or statutory authority
Small Cell Network Nodes

- Access nodes can be attached to several types of street level structures in the ROW (streetlights, traffic signal masts, utility poles, and stand alone poles)
- Antennae may take many forms including panel types and pole top types
- Equipment requires power supply source and ground mounted equipment
Effect of SB1004/Chapter 284 on City

1. Chapter 284 imposes strict limitations on what Cities can require
2. Disallows Cities from imposing moratoriums
3. Allows Cities to establish application and permitting process
4. Establishes short review time with automatic approval beyond specified time frames
5. Establishes maximum fees for review, permitting and ROW use
6. Does not provide for Public Utility Commission oversight. Disputes are taken to court
7. Cities may not prohibit connection to City owned facilities in the ROW (streetlights, street signs, traffic masts, utility poles, etc. except where traffic or school zone flasher interference is a factor
8. Cities may require license agreements
9. Cities may enact design standards if no conflict with Chapter 284
10. Allows the City to establish aesthetic standards only in adopted Design Districts and Historic Districts (including concealment and color) with decorative poles.
11. Allows load analysis requirement on utility pole
- Proposed City of San Marcos Ordinance will provide specific standards for small cell network infrastructure
- Will not apply to other utilities
- Will enact design manual, license agreement and ROW ordinance language
- Will create application and permitting process
- Will establish fee
• All effects of chapter 284, safety issues associated with these installations, and the requests to be made by future network node deployers are not fully known at this time.

• Accordingly, all aspects of the program may require further Council action to amend the ordinance or staff action to revise materials and the program to protect City and Public interests while respecting the Chapter 284 requirements.
AGENDA CAPTION:
Consider the appointment of an ad hoc Extraterritorial Jurisdiction (ETJ) member to the Impact Fee Advisory Committee, and provide direction to Staff.
Meeting date: October 17, 2017

Department: Engineering/CIP

Funds Required: N/A
Account Number: 
Funds Available: 
Account Name: 

CITY COUNCIL GOAL: Goal #7: Sound Finances

COMPREHENSIVE PLAN ELEMENT(s): LUG105 Align infrastructure plans to achieve preferred scenario.

BACKGROUND:
This item is to appoint an ETJ resident to join the Planning and Zoning Commission to act as the Impact Fee Advisory Committee. Chapter 385 of the Local Government Code provides for a political subdivision’s Planning and Zoning Commission to act as the committee and if an ETJ member is not part of the Commission to appoint an ad hoc voting member.

An ETJ member is required if impact fees are to be applied in the ETJ. Because the City’s water and wastewater service areas extend beyond the City limits, impact fee are collected in the ETJ.

The advisory committee responsibilities for the impact fee process are:

- Review draft report on land use, capital improvement plan and maximum fees and make comments
- Conduct a Public Hearing
- Adopt a final committee report and submit to Council

The schedule for the new impact process has not been finalized but would include two meetings with the committee in November/December with final adoption of the fees in January/February by City Council.
AGENDA CAPTION:
Discuss and consider an appointment to fill two vacancies on the San Marcos Youth Commission, and provide direction to Staff.

Meeting date:  October 17, 2017

Department:  City Clerk

Funds Required:  N/A
Account Number:  N/A
Funds Available:  N/A
Account Name:  N/A

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
There are currently two vacancies that need to be filled by San Marcos High School students on the San Marcos Youth Commission. Both of these terms will expire in February of 2018.

The City Clerk’s Office has provided the applications to the City Council for review.
AGENDA CAPTION:
Hold discussion regarding the transfer of City Council compensation funds out of the General Fund to another City fund, and provide direction to Staff.

Meeting date: October 17, 2017

Department: City Manager's Office

Funds Required:
Account Number:
Funds Available:
Account Name:

CITY COUNCIL GOAL:

COMPREHENSIVE PLAN ELEMENT(s):

BACKGROUND:
Dr. Mihalkanin has requested a discussion item which would allow him to transfer his council compensation budget for 2017 to the Drainage Utility fund. Mr. Mihalkanin is entitled to $23,400 in compensation each year but is not eligible to receive this compensation since he is an employee of the State. He has requested his compensation be moved over to the Drainage Utility Fund for future CIP projects. This item was seconded by Mayor Thomaides for discussion purposes as captioned.
RESOLUTION NO. 2014-59R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ADOPTING A REVISED POLICY FOR THE REIMBURSEMENT OF COUNCIL MEMBER EXPENSES; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. Section 3.04 of the City Charter provides that “the city council by resolution or ordinance shall provide for a means of determining what expenses are reimbursable and what requirements must be met for reimbursement”.

2. The City Council wishes to approve a revised policy for reimbursement of Council Members for expenses they have incurred in the performance of their official duties by means of this resolution.

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

PART 1. Eligibility of Expenses for Reimbursement. City funds will be used to reimburse city council members only for expenses incurred in the conduct of official city business.

PART 2. Reimbursement Procedures.

A. Expense Form. The City will reimburse a council member only if the council member submits a completed expense and mileage reimbursement form to the finance department which clearly identifies and satisfies the following requirements:

1. The amount of the expenditure;

2. The time and place of the expenditure;

3. The nature and purpose of the official City business engaged in by the council member related to the expenditure;

4. For long distance calls, the date, time, person and/or business called, telephone number called and the purpose of the call; and

5. For reimbursement of meal or beverage expenses of another person, that person and the official city business related to the expenditure must be identified.

B. Evidence of Expenditures. The expense and mileage reimbursement form must be accompanied by a receipt or other documentary evidence for each expenditure. Mileage shall be
reimbursed at the prevailing rate for City employees only if the mileage portion of the expense and mileage reimbursement form is completed.

C. Travel Arrangements. A council member may make travel arrangements, including advance payments towards expenses, through the city clerk’s office, but the council member shall be responsible for securing receipts for all expenditures and submitting completed expense and mileage reimbursement forms.

D. Reimbursement for Expenses - Deadline for Settlement. For expenses for which a council member has not obtained an advance, the council member shall submit a completed expense and mileage reimbursement form to the finance department within 30 days of the date the expenses are incurred, or the finance department shall not process the reimbursement request.

E. Documentation of Expenses Charged to City-Issued Purchasing Cards. For expenses charged to a city-issued purchasing card, a council member shall submit receipts for the amounts charged on the p-card with an explanation of the purpose of the charge within 30 days of the date the expenses are incurred.

PART 3. Finance Department Responsibilities. The finance department is responsible for processing claims for reimbursements towards expenses for council members. If the finance department in its sole discretion cannot determine that all or any part of the request for reimbursement or advance clearly meets the requirements of Part 1 above, the finance department shall deny the request as to the expenses in question.

PART 4. Expenses Payable from Individual Council Accounts. The following city council expenses are to be paid from individual council member line item accounts:

A. Travel expenses – Air fare, hotel, mileage, car rental, cab fare, parking, etc. will only be reimbursed while on city related travel. Personal travel shall be reimbursed to the City within thirty (30) days. The City will pay for roundtrip, coach airfare. City Council is encouraged to take advantage of discounts when available. If a council member makes first class travel reservations, the council member will pay the differential between first and coach classes. Rental vehicles should be an economy or midsize car or small SUV.

Travel will not be reimbursed for Council Members after their term has expired with the City even if the travel was booked prior to the Council Member leaving office. A Council Member who leaves office shall reimburse the city for any city funds used to pre-pay expenses for travel scheduled on a date subsequent to his/her last day in office.

B. Per Diem - Per Diem amounts, at the current published IRS rates, will be given to council members for each day of travel to cover meals, tips and incidentals. These amounts may be paid in advance to the council members and do not require receipts to be submitted. Per Diem and Hotel will only be reimbursed by the City for the travel directly
related to the event or conference including the day before the event or conference and the day after the event or conference if travel is not reasonably available the day of the event or conference. No personal related travel expenses will be reimbursed and any charges made to a city purchasing card for travel expenses not authorized under this subsection shall be reimbursed to the city within thirty (30) days.

C. Registration fees for individual council members to attend meetings, conferences, or tickets to local or charitable events. When air travel is required to attend the conference, the council member must attend the majority of the conference sessions between the opening and closing sessions. The sessions attended must be education in nature and relate to present of future issues pertaining to the City. Exceptions for the attendance requirement can be taken to the finance and audit committee for consideration.

D. Individual dues and subscriptions costs – organizations in which council member membership is not routine; individual subscriptions to magazines

E. Logo attire if specially ordered or if individual name is used can be purchased with the City Pcard and will be charged to the individual Council Member’s expense account. Group clothing purchases ordered by the City Clerk will be paid via the City Clerk’s budget. Clothes or clothing accessories purchased while on trip due to lost luggage are not reimbursable by the City

F. Alcoholic Beverages will not be reimbursed while on City business travel or city related functions. Recreational expenses such as golf, spa activities or other similar recreational activities will not be reimbursed.

G. Miscellaneous Council Member Expenses-Up to $6,000 a year in expenses incurred by Council Members in the course of serving on City Council may be reimbursed. If the expenses are submitted without receipts, then the funds are considered taxable W-2 income to the Council Member. A Council Member shall not assign his/her unused funds for council expenses to another Council Member without the approval of the Audit and Finance Committee. The Audit and Finance Committee is authorized to allow a Council Member to exceed his/her annual travel expense funding by an amount not to exceed $200.

H. Mileage to and from various city events located outside of Hays County, including but not limited to city council meetings, city events or functions, board meetings as well as other city related business including local and charitable events, will be reimbursed at the current IRS statute rate.

PART 5. Reimbursement for office space and staff expenses.

In addition to the funds budgeted in each fiscal year for Individual Council Accounts, an additional sum, not to exceed the monthly amount set by ordinance for compensation of council members and the mayor, shall be made available to reimburse actual expenses incurred for office space and staff expenses. Reimbursement shall be based on paid receipts submitted to the
City Clerk. Reimbursement shall not be made for office space or staff expenses used for election campaign purposes.

**PART 6. Expenses Payable from City Clerk Accounts.** The following expenses are to be paid from city clerk accounts (e.g., Council-Related, Tourism, Economic Development):

A. Office supplies – stationery, proclamation forms, business cards

B. City memberships in organizations such as Texas Municipal League, National League of Cities, Capital Area Council of Governments, Greater Austin-San Antonio Corridor Council, U.S. Conference of Mayors, Hispanic Elected Local Officials, National Association of Latino Elected Officials

C. Logo attire if ordered in bulk

D. Telephones and pagers

E. Postage

F. Council meeting expenses - food, rental of facilities, facilitator expenses

G. Joint registration of council members to attend meetings or events (e.g., purchase of group seating rather than individual seating)

H. Miscellaneous - keys to the City, gifts to visitors, funeral/illness cards and flowers, computer software, plaques and engraving

**PART 7. Reporting of Individual Council Member Expense Activity.** A summary of each council member's expense activity will be posted on the City website each quarter. The summary will show all expense activity in the travel and compensation accounts for each council member and show budget used and budget remaining for the current fiscal year.

**PART 8. Use of Additional Budgeted Funds.** Any funds budgeted above and beyond the individual council members' travel and compensation amounts will be reserved for unique and/or extraordinary opportunities related to economic development, education, or other unique opportunities beyond the normal course of council members' travel and business. The use of the funds must be authorized by the City Manager based upon a recommendation of the Finance and Audit Committee

**PART 9.** This Resolution shall become effective upon adoption.

ADOPTED on April 15, 2014.
Attest:
Janine Lee Pettijohn
City Clerk

Mayor
Daniel Guerrero