City of San Marcos

Regular Meeting Agenda - Final

City Council

Tuesday, April 21, 2020 | **6:00 PM** | **Virtual Meeting**

Due to COVID-19, this will be a virtual meeting. To view the meeting please go to www.sanmarcostx.gov/videos or watch on Grande channel 16 or Spectrum channel 10.

I. Call To Order

II. Roll Call

III. 30 Minute Citizen Comment Period

PRESENTATIONS

1. Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.

CONSENT AGENDA

2. Consider approval, by motion, of the following meeting Minutes:
A. March 3, 2020 - Work Session Meeting Minutes
B. March 3, 2020 - Regular Meeting Minutes
C. March 17, 2020 - Regular Meeting Minutes
D. March 31, 2020 - Special Meeting Minutes
E. April 7, 2020 - Work Session Meeting Minutes
F. April 7, 2020 - Regular Meeting Minutes

3. Consider approval of Ordinance 2020-18, on the second of two readings, supporting the San Marcos Police Department's increased use of the cite and release process, when appropriate, instead of arresting individuals suspected of having committed certain misdemeanor offenses: requiring recordkeeping and reporting of use of the cite and release process and instances in which individuals have been arrested for cite and release eligible offenses; and providing an effective date.

4. Consider approval of Resolution 2020-84R, approving Amendment No. 4 to the Airport Project Participation Agreement between the City and the Texas Department of Transportation initially approved by Resolution 2015-80R and then amended by Resolution 2016-80R and Resolution 2019-117R which authorized the City's acceptance of a grant from the Texas Department of Transportation for the construction of a box hangar and associated developments at the San Marcos Regional Airport; to increase the estimated project cost from $881,200.00 to $920,447.00; to approve the City's expenditure of local funds in the estimated amount of $253,283.70; authorizing the City Manager or his

designee to execute any documents necessary for the implementation of the hangar development project; and declaring an effective date.

5. Consider approval of Resolution 2020-85R, approving an Advanced Funding Agreement with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-02-149) for the Water and Electric Utility Relocation project from Interstate Highway 35 from North of River Ridge Parkway to Loop 82, with an estimated cost of participation by the City in the amount of $555,400.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

6. Consider approval of Resolution 2020-86R, approving an Advanced Funding Agreement (AFA) with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-03-114),for drainage and landscaping betterments along IH-35 from south of SH 80 (Hopkins St) to north of RM 12 (Wonder World Dr) with a participation amount by the City of $5,822,990.22, authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; and declaring an effective date.

7. Consider approval of Resolution 2020-87R, awarding a contract to Fleet Safety Equipment, Inc. (known as Dana Safety Supply) through the Texas Local Government Purchasing Cooperative BuyBoard (Contract No. 603-20) for the purchase of patrol equipment to outfit the recently purchased vehicles for the Police Department in the amount of $331,724.80; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City; and declaring an effective date.

8. Consider approval of Resolution 2020-88R, approving the following in connection with the Whisper Public Improvement District: (I) an amended and restated financing agreement with Whisper Master Community Limited Partnership, Yarrington Partners Ltd., Whisper Industrial 2019 QOZB, LLC and 135 Residential Development, LLC; (II) an improvement area #1 acquisition and reimbursement agreement with Whisper Master Community Limited Partnership, Yarrington Partners Ltd., Whisper Industrial 2019 QOZB, LLC and 135 Residential Development, LLC; and (III) an improvement area #2 acquisition and reimbursement agreement with Whisper Master Community Limited Partnership; authorizing the City Manager to execute said agreements on behalf of the City; and declaring an effective date for said agreements.

9. Consider approval of Resolution 2020-89R, approving an Interlocal Agreement with the City of Cedar Park, Texas, to enable each city to utilize vendors for goods and services under contracts procured by the other; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

NON-CONSENT AGENDA

10. Consider approval of Ordinance 2020-22, on the first of two readings, reducing the speed limit from 30 miles per hour to 25 miles per hour along the 500 block of Harvey Street between North Street and Blanco Street; authorizing the installation of signs and traffic control devices reflecting the new speed limit; directing that the traffic register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the new speed limit; and including procedural provisions.

11. Consider approval of Ordinance 2020-23, on the first of two readings, establishing a no parking / tow-away zone on the southside of a city easement located at 708 Peques Street pursuant to Section 82.066 of the San Marcos City Code; authorizing the installation of signage reflecting the no parking / tow-away zone; directing that the Traffic Register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the no parking / tow-away zone; and including procedural provisions.

12. Consider approval of Ordinance 2020-24, on the first of two readings, amending the traffic register maintained pursuant to section 82.067 of the City Code by decreasing the speed limit in the 1300 through 1500 blocks of Belvin Street (between Bishop Street to Dixon Street) from 30 miles per hour to 25 miles per hour in both directions and authorizing the installation of speed cushions; and including procedural provisions.

13. Consider approval of Ordinance 2020-25 amending the city's 2019-2020 fiscal year budget to allocate $50,000.00 from each of the special services budgets of the city's general fund, electric fund, and water and wastewater fund for a total amount of up to $150,000 to pay for various activities in response to the covid-19 pandemic; providing for the adoption of this ordinance on only one reading as an emergency measure; and declaring an effective date.

14. Consider approval of Resolution 2020-90R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 9.61 acres out of the Edward Burleson Survey No. 18, Abstract No. 63, Hays County, generally located in the 400 Block of Centerpoint Road; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

15. Consider approval of Resolution 2020-91R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 60 acres out of the Thomas G. McGehee Survey, Abstract No. 11, Hays County, located at 4087 State Highway 21; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

EXECUTIVE SESSION (if necessary)

16. Executive Session in accordance with the following Government Code Sections:
A. §551.071 - Consultation with Attorney regarding: Legal considerations of an anti-discrimination ordinance; and acquisition of property in Downtown San Marcos for public use
B. Section § 551.072 - Real Property: to receive a staff briefing and deliberation regarding acquisition of property in Downtown San Marcos for public use

DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION

17. Consider action, by motion, regarding the following Executive Session items held during the Work Session:

A. §551.071 - Consultation with Attorney regarding: Legal considerations of an anti-discrimination ordinance; and acquisition of property in Downtown San Marcos for public use

B. Section § 551.072 - Real Property: to receive a staff briefing and deliberation regarding acquisition of property in Downtown San Marcos for public use

IV. Question and Answer Session with Press and Public.

V. Adjournment.

POSTED ON WEDNESDAY, APRIL 15, 2020 @ 4:00 PM

TAMMY K. COOK, INTERIM CITY CLERK

Notice of Assistance at the Public Meetings

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File #: ID#20-200, **Version:** 1

AGENDA CAPTION:
Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.
Meeting date: April 21, 2020

Department: City Manager's Office

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

Fiscal Note:

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

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

Choose an item.

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☒ Core Services

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Click or tap here to enter text.

City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Legislation Text

File #: ID#20-188, **Version:** 1

AGENDA CAPTION:

Consider approval, by motion, of the following meeting Minutes:

A. March 3, 2020 - Work Session Meeting Minutes

B. March 3, 2020 - Regular Meeting Minutes

C. March 17, 2020 - Regular Meeting Minutes

D. March 31, 2020 - Special Meeting Minutes

E. April 7, 2020 - Work Session Meeting Minutes

F. April 7, 2020 - Regular Meeting Minutes

Meeting date: 4/21/2020

Department: City Clerk

Amount & Source of Funding

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

Fiscal Note:

Prior Council Action: Approval of Previous Meeting Minutes

City Council Goal: [Please select goal from dropdown menu below]

Choose an item.

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

☐ Economic Development Choose an item.

☐ Environment & Resource Protection Choose an item.

☐ Land Use Choose an item.

☐ Neighborhoods & Housing Choose an item.

☐ Parks, Public Spaces & Facilities Choose an item.

☐ Transportation Choose an item.

☒ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

The following minutes are attached for review:

A. March 3, 2020 - Work Session Meeting Minutes

B. March 17, 2020 - Emergency Special Meeting Minutes

C. March 24, 2020 - Special Meeting Minutes

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

Alternatives:

Recommendation: Approve Minutes as attached

City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes
City Council

Tuesday, March 3, 2020 | **3:00 PM** | **City Council Chambers**

630 E. Hopkins - Work Session

I. Call To Order

With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Hughson at 3:03 p.m. Tuesday, March 3, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Council Member Marquez arrived after roll call at 4:00 p.m.

Present: 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

PRESENTATIONS

1. Receive a Staff presentation and hold a discussion on the San Marcos Development Code amendments and Strategic Housing Action Plan, and provide direction to the City Manager.

Bert Lumbreras, City Manager provided a brief introduction. He turned the presentation over to Amanda Hernandez, Planning Manager and Shannon Mattingly, Director of Planning and Development Services.

Ms. Hernandez provided the Land Development Code (LDC) background and summary:
• April 2018 San Marcos Land Development Code Adoption
• March – May 2019 Solicitation of comments for annual update
• June 2019 Joint workshop between City Council and Planning and Zoning Commission. This workshop identified the following:
– Items to expedite – Typos, Technical Errors, etc. (Phase 1)
– Amendments requiring additional analysis (Phase 2 & 3)
– Amendments not recommended for additional analysis
• December 2019 Adoption of Phase 1 amendments and discussion on Phase 2 & 3 amendments.
• March 3, 2020 Initial authorization for Phase 2 amendments and direction on

amendments not recommended for additional analysis.

Next Steps for Phase 2:

1. March 24, 2020 Planning & Zoning Commission Public Hearing & Recommendation
2. April 21, 2020 City Council Public Hearing & First Reading
3. May 5, 2020 City Council Reconsideration Second Reading
***Staff recommends analysis of Phase 3 items following the Comprehensive Plan Update**

Greg Schwarz, Engineer, provided the recommendations from the Engineering Department:
• Increase protection zone around sensitive geologic features.
• Incorporate natural channel design for water quality zone reclamations.
• Clarify delineation of Water Quality and Buffer Zones.
• Waiver for geological assessment within Transition Zone and Contributing Zone within Transition Zone.
• Fee-in-Lieu / Exception for detention / water quality for 4 or less residential lots.
• Fee-in-Lieu of detention outside of the Urban Stormwater Management District.
• Expand administrative approval for Qualified Watershed Protection Plans.

Council asked questions regarding watershed protection and the waiver for geological assessment. There were some reservations on this and Staff will address prior to adoption.

Alcohol Conditional Use Permit Committee Recommendations:
• Expire conditional use permits after three years.
• Limit appeal eligibility to the applicant.
• Require permit holders to keep their site in clean and sanitary condition.
• Update the noise ordinance.

There were no objections to this list so it moves forward.

Workforce Housing Task Force Recommendations:
• Exempt infill from minimum lot depth-to-width requirement.
• Add Strategic Housing Action Plan as zoning criteria.
• Allow accessory dwelling unit parking in the second layer.
• Modify the definition of RV & manufactured home to include tiny homes.

There were no objections to this list so it moves forward.

Additional Amendments:
• Block Perimeter waiver for Heavy Industrial districts.
• City Council appellate body for City-owned properties denied by the Historic Preservation Commission.
• Align cross sections with Transportation Master Plan.
• Increase ETJ block perimeter.
• Remove initial authorization for code amendments by City.
• Update Concept Plat applicability.
• Provide definitions for House and Cottage.
• Include occupancy restrictions in CD-3.
• Make pre-development meetings mandatory.
• Include sustainability language per HPC-2019-03RR.*
• Add Event Center as a use.*
Items with an asterisk (*) are recent additions. There were no objections to this list so it moves forward.

Neighborhood Density District Amendment Summary:
• Create an additional district to allow a moderate increase in density from conventional residential districts.
• Require a Comprehensive Plan map amendment any time higher density is requested by amending Table 4.1.

Ms. Hernandez explained that staff suggests this be on the Phase 3 list (after the Comprehensive Plan update)
Mayor Hughson noted that not all Neighborhood Districts are similar in density and the same is true for Character Districts. Not having a Preferred Scenario Amendment process required is where we've seen most of the issues with rezoning requests since the LDC was adopted. She noted that a "PSA-light" might be in order for some, which would include some of the requirements for a PSA, but not all. She stated that this cannot wait for Phase 3. All council members in attendance agreed so this item will be in phase 2.

• Require "majority plus one" votes at the Planning & Zoning Commission and City Council for all Comprehensive Plan map amendments.
This item will move forward. There were no objections to this list so it moves forward.

• Rename "Neighborhood Density Districts" to "Neighborhood Diversity

Districts"
Council decided not to accept this suggestion.

Amendments not recommended for additional analysis:
• 24 amendments discussed on June 5, 2019 were not recommended for additional analysis.
• 3 amendments moved to this list following adoption of House Bill 2439, limiting where cities can enforce durable building materials.
Council returned to this item later in the meeting.

• Options for the action item on the regular agenda:
1) Remove from the list of amendments to consider
2) Send back to P&Z for recommendation(s)
Strategic Housing Action Plan:
• Staff identified four actions which may result amendments to the San Marcos Development Code.
• All actions were identified as items which should be considered following the Comprehensive Plan Update except:
– Adding Tiny Homes as an allowable use in the Manufactured Home zoning district.
• Staff is seeking direction on the Housing Action Plan approval process.

Staff is requesting the Housing Action Plan to be reviewed by the Workforce Housing Committee or placed on future agenda for action. Council asked that this also include the chair and vice-chair of the Housing Task Force Committee.

Council returned to the list of items for removal.

Mayor Hughson inquired about item Remove-4 - Perform additional analysis and partner with Texas State University to better understand the demand for student housing. This is to be removed because it won't be in the LDC, but will be addressed in the Comprehensive Plan.
Mayor Hughson inquired about item Remove-6 - Protection of Native American artifacts as this item is already a requirement outside of the LDC. Similar for Remove -5 Protection of trees on private residences.
She next asked about item Remove-15 - Remove exemption for projects of 10 or fewer units in CD-5 and CD-5D zones. (This is in the residential section.)
Council unanimously agreed to place this back on the list for Phase 3.
Next item for discussion was Remove-24 - Maintain Planned Development Districts exclusion from Code. Note that the Phase 3 list includes Phase 3-32

Review possibility of adding Planned Development. Council determine that Phase 3-32 would suffice and that item Remove-24 may be removed.

Councilmember Rockeymore about the items removed due to House Bill 2439. Currently, we have not removed them from our code; they are flagged with HB 2439 as that bill allows for certain building material standards in certain areas. Council determined that leaving our stardards in the code as a recommendation would be a good idea.

There were no objections removing the remaining items on this list so these items will not move forward.

Councilmember Derrick inquired about moving several items in Phase 3 to Phase 2. First was item Phase 3-14 On street parking should not count towards Multifamily parking requirement.
Ms. Hernandez noted the complexities of this topic and stated that staff wants to have a workshop on this topic before the begin to create code changes. Council expressed concern about this item and the urgency to move forward so this item will be moved to Phase 2.

Councilmember Derrick then inquired about Phase 3-21 - Replace current standards with requirement that Commercial use across the street from established Residential use be limited to 1 story. She noted that this is a issue now and we need to address it now. Council agreed to move this item to Phase 2.
Mayor Hughson inquired about Past 3-15 – Accessory Dwelling Units - Change from by-right to conditional use in all districts. She noted that a Conditional Use Permit was required in the past. Ms. Hernandez noted that some of the previous conditions are built into the Code. ADUs are limited to a few residential districts, same utility, limited to one per property, limited in size, and the owner must live on the same lot. Council consensus was to move to Phase 2 for further analysis.

Staff will update the Code amendment document, as recommended by Council, and ask for a motion to move forward at the regular meeting this evening.

EXECUTIVE SESSION

2. Executive Session in accordance with Section § 551.089 - Security Devices: to discuss Security Measures and Deployment of Information Resources Technology.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy

Mayor Pro Tem Rockeymoore to enter into Executive Session at 4:40 p.m. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

III. Adjournment.

Mayor Hughson stated Executive Session concluded at 5:20 p.m.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to adjourn the work session meeting of the City Council at 5:21 p.m, February 18, 2020 The motion carried by the following vote:

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

Against: 0

Absent: 2 - Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

Tammy K. Cook, Interim City Clerk **Jane Hughson, Mayor**

City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes
City Council

Tuesday, March 3, 2020 | **6:00 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 Hughson at 6:02 p.m. Tuesday, March 3, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

III. Invocation

Rev. Krista Weber Huang, with San Marcos Unitarian Universalist Fellowship, provided this evening's invocation.

IV. Pledges of Allegiance - United States and Texas

Elsa Sanchez, 2019 Miss Beautiful, led the assembly in the pledges of allegiance.

V. 30 Minute Citizen Comment Period

Eduardo Camargo, Director of Governmental Affairs for the Student Government at Texas State University, spoke on the stewardship of the environment. Students are becoming aware of the faults in efforts to divert waste, to properly dispose food waste and recyclable materials. Texas State University lobbied the state legislature to create the environmental service fee which creates a revenue of $80,000 for environmental projects. Bobcat Blend, a student-run organization at Texas State focuses on collecting compost out of kitchens on dining locations on campus. The student government passed a piece of legislation that advocates addition post consuming composting on the Texas State University campus, which is having compost bins to compost their food scraps. Mr. Camargo mentioned that this will make Texas State University one of the very first schools in Texas to implement a post consume compost system. He mentioned the issues that students are facing and how Council can help. Students main issue when composting and diverting food

waste is lack of education and lack of culture as it relates to compost. The culture is growing day by day and we are recruiting students to become more aware and to advocate for environmental issues. We decided that it was time to put this in writing and that the Council considers implementing a zero waste plan so we have time table to meet certain standards. City of Toronto have a composting system which have been self-sufficient and self-sustaining and believes we can have something similar in San Marcos.

Tucker Thompson, Student Body Vice-President at Texas State University, addressed Council on the implementation of Zero Waste Plan and made the following comments:

"What is Zero Waste? It is a set of principles focused on waste prevention that encourages the redesign of resource life cycles so that all products are reused. The goal is for no trash to be sent to landfills, incinerators, or the ocean. Zero waste encompasses more than eliminating waste through recycling and reuse, it focuses on restructuring production and distribution systems to reduce waste. It means designing and managing products and processes systematically to avoid and eliminate the waste and materials, and to conserve and recover all resources from waste streams.

How does Zero Waste Create Jobs and effect the Economy?
1. Collecting, processing and preparing materials. Your discarded materials are picked up and then brought to processing facilities where they are sorted and prepared to sell to markets.
2. Making new products from recycled materials (remanufacturing). Your recyclables then head to paper mills, metal smelters and plastic manufacturing facilities that use recycled materials to make new products. Compost facilities turn your discarded yard and food scraps into valuable soil amendments or energy
3. Reuse and repair businesses that sell reclaimed products. These include antique stores, thrift stores, tailors, auto salvage yards, computer refurbishers, and used book stores.

Ten times more jobs are created through reducing, reusing and recycling than through trash disposal. In addition to job growth, Zero Waste gives value back to the community by keeping materials - and dollars - out of the landfill. Every ton of trash that gets buried in your local landfill contains products like paper, plastic, and metal that could have been sold for recycling. That's money that could have supported community and local businesses. The U.S. buries $11.4 billion every year in potential revenue from earnings. Other cities are Austin,

Dallas, Washington D. C, Oakland CA, Coulder CO, and others. Waste Management systems have not received as much attention in teh city planning process as water and energy therefore gaps can be observed. He provided a number of examples.
- Restaurants Food Waste:
- Auditing how much they buy so they will not overbuy.
- Providing Composting opportunities (provided the city has a composting center available).
- Keeping leftovers to give to community centers (i.e. Southside community center).
- Providing more menu options with leftover food items that would have previously been thrown away.
(Comments were limited to three minutes, time expired)

Eric Martinez, Policy Director w/ Mano Amiga and spoke in favor of the proposed ordinance on item # 29 and read the following comments:
"Since 2007, Texas law enforcement officers have been able to "Cite and Release" , for certain low-level, non-violent offenses, like driving with an invalid license, petty theft, and possession of Marijuana, in effect treating these offenses much like a traffic ticket, where somebody still has to go through the court process, pay restitution if necessary, rather than being arrested unexpectedly. Being arrested and jailed even for short period of time can have devastating consequences. As a merely an arrest record can negatively impact employment, and housing.
To be eligible to have these offenses treated like a traffic ticket a person must be a resident of Hays County, not be publicly intoxicated, they can't be a danger to themselves or others, they can't have any outstanding warrants, or be charged with a more serious non-citation eligible offense. An ordinance ensures that 100% of people who are citation-eligible no matter their race or class will experience law enforcement in the same way. I'm certain under the direction of Director Stapp and Chief Klett that small improvements are being made, but small improvements are just that: small. We should be arresting 0% of the time for citation-eligible offenses, not 77% of the time. How long do peaceful non-violent members of our community have to wait to be free from fear by the hands of our local law enforcement? How long do we have to wait till, we say that we will stop separating parents from children for these non-violent offenses and stop ruining students' lives. As somebody who grew up in a household with family members who lived in fear of law enforcement everyday this is very real to me. My step-father, worked 3 jobs so that my mother could work 1, so we could have 1 parent in the house-hold, half the time. He drove to those 3 jobs with an invalid license, dropped me off at

school with an invalid license. We lived in fear with him and for him. Today y'all will decide whether or not everyone who has a citation-eligible, non-violent offense deserves to have their freedom, or if these people deserve to be incarcerated and locked in a cage, taken from their family, friends, loved ones, and community over merely petty offenses. An ordinance would ensure 100% of people are treated fairly and a resolution would only deny and delay justice. So it is that I humbly ask, you support what is written, as it's written, and delay justice no longer."

Khimaira Garza, spoke in favor of item #29, made the following comments: "In November of 2019 my life was at its lowest. My home life was abusive, and because I was afraid to go home I spent a large amount of time in Austin. I was seeing a woman twice my age, who was abusive and dangerous in ways that were much harder to escape from. In November of 2019, she was going onto a plane, and handed me a vial with a small amount of methamphetamine in it. I held onto it for her, afraid that if I lost it my fears would turn into realities. I was terrified of her, and to this day I'm unwrapping everything that I dealt with as a result of her entering my life. She was not the first dangerous addict in my life. The first was my father, a sociopath who's now in prison because he, like her, was in the dope game, and he, like every other addict, had time run out on him. In October of 2019, I started letting my own time run out. I found that the sands of time looked just like crushed crystals, and my time almost ended as quickly as it started. In November, I did not come home for thanksgiving. The only stretch of my waistband came in the form of her gun, and the only knives I held were the ones I sharpened for her. There was no home to go to, no grace to say with my cousins. I didn't even talk to my family on that day. On the 28th of that month, we were pulled over. I was unable to tell the police who the vial belonged to. I knew the consequences of being honest. So I lied. The officers were kind, and the amount of drugs was small enough to be considered residue. I know that the police could have arrested me. I could have been in prison like my father. Instead, they handed me a ticket. Instead, they gave me a chance to get sober. They gave me a chance at life. And I know, that for so many Latinos like my father, citations do not come often enough. I know that if I came out less blanquito and had the dark hair of my family, the caramel skin, that I could have been arrested that night. We need to pass an ordinance to ensure that every low level offender is able to get the same level of understanding as I received. We need to pass an ordinance because I know that if my father, my cousin, my friends, had been in the truck that night, that they might not have been given that chance. When black and Latino citizens are disproportionately arrested, when black and Latino citizens continue to have their lives split apart while white citizens who

commit the same times get to live outside of a cell, when black and Latino citizens lose employment and housing because they stay in jail for days, there has to be accountability. Guidance is not enough. An ordinance is the only fair and moral solution. Thank you.

Samantha Benavides, San Marcos Advocacy Fellow for Move Texas, addressed agenda item #29 and made the following comments:
"The first component of the policy I want to address is the issue of officer discretion. In the time that I have spent advocating for this policy, I've heard officers say that as long as someone is complying with them, isn't giving them a hard time, isn't lying to them, they give them a break. But when you come from a community that has been historically victimized by law enforcement, and many still are today, you may be nervous, young people especially, and may not be in total compliance, and you may lie, because you do not trust them based on their history with the community. Mandating citation by curtailing officer discretion means understanding this relationship. This is why we need an ordinance that guides officer discretion and to requires them to use it to the benefit of *all* San Martians. We've already seen dramatic racial disparities in the use of this policy. In 2018, they didn't use the policy on a single Black person; out of the 72 cases, all eligible for cite and release, every single one of them was arrested. Despite only making up 5% of the population, they accounted for 22% of citation eligible arrests. Without this ordinance guiding officer discretion, I know and I am certain that we will continue seeing racial disparities in SMPD's use of cite and release. The next thing I would like to address is the overcrowding in Hays County jail. At a recent commissioners court meeting it was stated that the county spends over $87,000 to outsource inmates and that we have contracts with nine counties to outsource our inmates to other jails. Instead of implementing the state level framework that outlines citation eligible offenses, keeping low level nonviolent offenders out of our pretrial jail system, San Marcos has preferred a system where an arrest option is still on the table. An arrest not only separates them from loved ones, but in many cases, our overcrowded jail can mean being sent to an unfamiliar facility. At the same time, their cars may be impounded, their dependents may be left without proper care, and they could be left jobless. Young people in San Marcos should not have their lives so destabilized by a system that we can improve together, today, with the policy option on the table. You were elected to the positions you are in now because our community, young voters included, trusts you to bring justice to an oftentimes unjust system. I hope you won't accept anything but a cite and release policy that guides officer discretion, takes racially discriminatory policing seriously, and has in place diversion programs so that people can remain in their communities rather than

in jail cells."

Emma Mayers, support of cite and release, addressed agenda item #29 and made the following comments:
"Good evening council. My name is Emma Mayers and I would like to express my support for the cite and release ordinance on the agenda tonight. So I have been following the issue of cite and release since around September of 2019. Like Sam, Erik, and Khi have mentioned, implementing this ordinance is crucial for making our community a more just and equitable place. Passing an ordinance which includes all state eligible offenses, guided discretion, and data transparency will have a positive impact on marginalized populations within this community. With people under the age of 25 making up 50% of those eligible for citation, it is undeniable that young people will benefit from this ordinance. We know this, which is part of why you have seen so many organizations like Mano Amiga, MOVE, Texas Rising and countless others working together to support cite and release. It is your responsibility as council members to listen to your community and take our concerns seriously. We want this for San Marcos and have been expressing this for many months. I hope to see this version of cite and release implemented quickly by treating it like the priority that it is and moving it up on tonight's agenda. In the future I hope to see my city council supporting more initiatives that address the inequality within our own community. Thank you so much."

Faylita Hicks, spoke on behalf of Mano Amiga, read from a letter dated on June 9, 2010 to Ms. Wilson at Texas State University. " I'm currently waiting court in the Hays County Jail, on May 2, 2010 my car cut off on the side of the road. An officer pulled over a speeding truck, behind my vehicle, ticketed the driver and questioned me about my vehicle. The officer asked for driver's license and there was a warrant for my arrest. I am writing this letter because I have been arrested and detained from 10pm on May 2, 2010. Therefore, I have missed a mandatory final exam for math class, it was the last course I needed to complete my degree. The failure of this course, is going to require me to find an alternative route to graduating. I could not affordable the $600 required for bail and can't afford another semester at Texas State right now. Not asking for any other charitable services that I have been privileged to receive from the University but would like to know some of my options. I realized that I'm asking a lot of questions. Many that have nothing to do with your position, when I realized that i was going to be in here for an extended period of time. I knew that I needed to talk to someone soon. I admit that I have been struggling with the concept of completing school at all and up to this week it

has resolved not to. These past 7 years have been so long and so hard and I didn't know if I was worth trying. Most days it feels like I'm just getting by and I'm never going to accomplish anything. But people like professors and colleagues help keep me moving. I am smart and capable but I'm lost and the thing that gives me any purpose or direction is school. Sitting in here, I feel that I have let a lot of people down. Without trying to, I have become another static and my education just took me to the place that I wanted to avoid and I don't believe it. I thought someone had gotten it all wrong, today is not simple and please tell me what you think I should do. I never wanted to be that sad little woman, crying "Woe to me" but I don't know what else to do at this point. My court date is June 18, 2010 and if all goes well, I will be released with time served. If it is alright with you, I would like to make an appointment with you to talk on how to strive forward on my out." I was released in July. When we talk about people who are being held inside the Hays County Jail for low level, non-violent offenses and misdemeanor charges. It is very likely, according to the Texas Appleseed report released in April 2019 about one in four people charged with nothing more serious than A class B misdemeanor stays in jail longer than 3 days. This is a report that has been covered all over Texas, not in one county but multiple counties in all the State of Texas. In 2019, San Marcos Police Department showed to arrest low level citations available offenses 77% of the time, only 31 people out of 134 people received citations and summons to appear in court at a later date. According to the San Marcos Police Department own numbers in 2018.

Lisa Marie Coppoletta, spoke about feeling safe in your own home and looking over the word tyrant. There is a quote "that tyrants already have some slight shade of virtue and they support the laws before destroying them". Her question is, is he the emperor or City Manager. There was a policy established back 2013 no one sided sidewalks. There was no caveat, if we had a right of way, the criteria was a right of way near grocery store, near school, or near a bus stop. None of those fit the Belvin Street sidewalk project. In fact they installed two bus stops to justify the project. Found out that the actual sidewalk where the affordable houses, where the city worker lives is not a public sidewalk but a private sidewalk. My yard got butchered is because Bert didn't follow his policy. In June on TV, under the agenda item for increase communication to protect historical resource and heritage live oaks, he stated that all future sidewalks projects will go through the Neighborhood Commission. That all future sidewalk projects would have neighborhood meetings. Instead, he held secret meeting with some neighbors and because of three junk cars in the drive way and three junk trucks in the street. Suddenly that family got a secret meeting and my yard was butchered. She stated that

she is the only Caucasian on the block finds it very odd, that every Hispanic has got everything they wanted. The City went on private land or alleging they didn't have right a way but we know they do as it is simplified by the utility poles and built up a Hispanic neighbors drive way to shut her up on the sidewalk. The City Manager is not installing a sidewalk on his employees who makes sidewalk to the point that it's dangerous. People are walking in the middle of the street. The stupidity of the sidewalks in my instance is that because he held secret meetings, now my financial assets in those beautiful trees of three different neighbors under threat. It is unsafe because people are walking on the side of the street where they have to cross the street to get to the food desert. Do I file a complaint against Kelly Eby for continuing trespassing? When I send correspondence from refraining her to do that, when she knows she didn't have a right for me to sign the form. Do file a complaint against Saul for his secret meetings? What do I do? You guys have ripped into my yard. If my trees were low level smoking weed or thieves, maybe you would have paid attention to my trees. Do not understand why you guys are not holding him accountable? The policy is that we have an open meeting with the neighbors, not a secret meeting. Most neighbors didn't get their yard butchered, I did and I'm the only one that is white on the block.

Deborah Carter, spoke in support of cite and release item. She thanked the Mayor and Council for their time and service. She stated that she was upset to read that no black people benefited in the cite and release in 2018. She stated if she was to get pulled over, she wouldn't have a problem no matter or have the least repercussions. She stated that it is very shameful, it's not justice and we need the cite and release ordinance. Mr. Carter mentioned the economic benefit of the cite and release ordinance. Talked about the cost of keeping people in jail that we don't have room and that is expensive and another aspect of the economic drain in our economy in our local employers. As Faylita Hicks said, "cite and release is an opportunity not to have your life disrupted". She stated people are struggling to find and maintain employment. She stated her friends and neighbors are barely making ends meet. Economic development has been one of the City's top initiatives. She stated from experience helping friends find jobs and seen incidents of job related disruptions. She stated unemployment rates are low but friends and neighbors are still struggling. Employers will let people go for minor attendance issues and is seen as unreliable and unstable. She stated that she has seen first hand people lose their jobs for this specific reason for spending time in jail for minor and victimless offenses. She mentioned that she has seen how it affects the whole family due to the loss of their income to pay bills. Also, the grief and anxiety to them or their children. She stated that mandatory city and release will be

good for our economy. It makes economic sense for a stable workforce that our employers will appreciate.

Ann Whitus, spoke in favor of cite and release. Ms. Whitus stated professionals tell us about preventing personal preference comfort level and past experiences from clouding one's judgment is extremely difficult in the best of circumstances. That is why in court trials, juries are questioned for bias. Today in San Marcos, we are asking San Marcos law enforcement officers to act as judge and jury for misdemeanors, taking punishment into their own hands when cases can be more fairly adjudicated by the practice of cite and release when allowed by State law. The numbers clearly tell us that in San Marcos from 2018, while black people made up only 5% of the population, there were 22% of cite eligible arrests. While white people were under criminalized relative to their population. Hispanics were over criminalized but not to the extent of our black community members. She stated that this is discrimination against people of color. She is asking Council to support the application of ordinance with only 6 disqualifying circumstances and not by resolution. The ordinance will remove intention or unintentional inclination for bias, which the numbers have shown and we all will be treated fairly regardless of color or economic background.

Alexis Duran, spoke on behalf of Texas Rising and in support of cite and release. She wanted to reiterate what the other speakers have said. She stated that no one's life should be ripped away and ruined when they can be given another chance by recieving a citation. People deserve to have hope and San Marcos Police Department has the ability to give out citations and have not been using it.

Jordan Buckley, spoke in favor of cite and release. He stated that this evening reminded him of Senate Bill 4 vote in which Mano Amigo was just born. He stated that he had been to jail three times and how humiliating can it be. He mentioned that will be hearing statistics from the Police tonight and the committee members received a report last month on how many people committed class A, B, and C misdemeanors but only certain numbers are eligible. He stated that the bigger number doesn't matter at all. He stated that he is not speaking for those that are not eligible to be cited. He stated that the smaller number on who is eligible and of those who are eligible who got arrested and cited. He stated what is important under State law, who is eligible and who got arrested and cited. He stated that three quarters who were eliglibe for citations, instead got arrested. He talked about discussion on discretion, disqualifiying circumstances that police leadership has had 9 months to look

at. He mentioned that Chief Stapp in his memo stated, "that it is fairly exhaustive in having the opportunities to justify in making an arrest". He stated that we are not impressed 77% of people because last year it was 87% and we want 0% and it is not difficult. He stated that people shouldn't go to jail for petty offenses with citations do the trick. He asked Council to have the final vote on April 7th.

Dayann Pazmino, on behalf of POC community, she spoke in favor of cite and release, there is fear and not knowing how to interact with cops, fear in not knowing, if our family will be separated for traffic violations. She stated fear for their future that it will be undermined for minor offenses with marijuana. She stated that young people are using marijuana medically to treat anxiety, depression or chronic pain, and many other reasons. She stated that young people do not get universal health care but they are being criminalized for taking care of themselves. The DACA community is terrified for being put on a pedastal having to be perfect. She mentioned that they are just normal young people that want to live normal lives. She stated sitting in jail interacting with ICE is not the fears that we have to deal with on a daily basis. She urges Council to pass the cite and release ordinance. There are statistics that people with color are being targeted by the police. She mentioned that this is not the society that she would like to live in.

Albert Sierra, Director of the San Marcos Housing Authority, spoke on the amendment #19 on CDBG-DR, Res. 2020-49R. In June of last year, over 8 months ago, this body was told that they would have inspectors go out to Blanco Gardens to come back with an assessment of damage to receive reimbursement to the flood damage recovery. No receipts had to be proven and that has not happened. The housing authority has not received a penny, today he finds out by looking at the action plan that $26,000 has been extracted from those funds, what that is, he doesn't know and will try to find out. He stated that it is commendable to open flood assistance to the people that were affected by the 2015 flood in the area of Blanco Gardens. He mentioned that the statements made that it would be given to provide assistance offered to city wide residents and if that would have been done then justice would have been done to the people in Blanco Gardens. He urged Council to make expedited progress on the expenditures on the funds that have been set aside for housing. He mentioned that yet, not much has been spent. He stated 1.8 million dollars for 10 homes that were raised 4 or 5 feet off the ground to be in the 100 year flood and the $26,000 that came out of the budget for the housing authority that he doesn't know what that is for and it didn't come to us.

Karen Brown, in support of cite and release ordinance, she stated that all the comments made from personal testimonies and citing statics that it is very clear to her and clear to Council that this ordinance will bring a measure of justice to our community. Justice especially for people who are poor and working people who can get fired if they miss and people who are separated from their children. She stated that she worked with children for many years and that she is particularly concerned for the children whose parents are put in jail instead of getting a citation when they comitt a misdeameanor. She stated that they are not a danger to society or danger to anyone and should be home with their families. She urged Council to please consider this ordinance when you think about the children. She stated that with justice in the community will be better if we are a just community. She stated that we heard other statics from people that have quoted, we have heard from personal testimony that justice is not served when the vulnerable people who are low socioeconomic and people of color in our community. When people are treated differently, when they are taking advantage of we are not meeting out justice instead we are meeting out injustice. She stated to please consider voting for this ordinance, it's the right thing to do and has confidence in the Council to do the right thing to pass this ordinance.

Kristian Caballero, spoke on behalf of Texas Appleseed, addressed agenda item #29 and made the following comments:
I'm speaking on behalf of Texas Appleseed, which fully supports the adoption of a Cite & Release program in San Marcos and more importantly, an ordinance. We would like to encourage the policy decisions that council makes related to arrests and jail be designed with the goal of preventing contact with the jail whenever possible and releasing people who can safely be released as quickly as possible. Research shows that jail contact has a major negative impact on people's lives, including but not limited to: employment, housing, education, mental or physical health, and family stability. Given the major destabilizing impact that jail has on people's lives, jail stays increase a person's risk of additional charges, fines, fees and re-arrest. In short, unnecessary jail time creates a vicious cycle of involvement and debt with the criminal justice system. Not to mention the threat of deportation for undocumented immigrants. By using citations in lieu of arrest, hundreds of people charged with low-level offenses can avoid contact with the jail entirely, maintaining contact with their children, families and communities; showing up for work and maintaining their employment; and able to continue with their lives as usual. We hope that council will adopt a Cite and Release ordinance to require officers to not only notify people that they do not need to disclose their

immigraiton status but also to update their citation forms to accurately define race and ethnicity, publicly share cite and release data quarterly, especially in relation to the offenses, and to successfully creates the opportunity for people to avoid jail contact entirely.

PRESENTATIONS

1. Receive a staff presentation regarding City Council priority needs for drafting the 2020-2024 Community Development Block Grant (CDBG) Consolidated Plan and comment on the proposed renewal of the Citizen Participation Plan, and provide direction to the City Manager.

CONSENT AGENDA

A motion was made by Council Member Derrick, seconded by Council Member Baker, to approve the consent agenda, with the exception of item #10 which was pulled and considered separately. Mayor Pro Tem Mihalkanin stated he would abstain from a vote on item #6 and #7 as he is employed by Texas State University. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:

A. February 4, 2020 - Regular Meeting Minutes
B. February 18, 2020 - Work Session Meeting Minutes
C. February 18, 2020 - Regular Meeting Minutes
D. February 20, 2020 - Budget Policy Workshop Meeting Minutes

A motion was made by Mayor Hughson, seconded by Deputy Mayor Pro Tem Rockeymoore, that this Minutes be postponed. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

3. Consider approval of Ordinance 2020-05, on the second of two readings, annexing into the City approximately 56.923 acres of land out of the John Williams Survey, Abstract 490, Hays County, being Phase 1, Section 2 of the La Cima Development, generally located west of the intersection of Old Ranch Road 12 and Wonder World Drive; including procedural provisions; and providing an effective date.

4. Consider approval of Ordinance 2020-06, on the second of two readings, amending the

Official Zoning Map of the City by rezoning approximately 56.923 acres out of the John Williams Survey, Abstract No. 490, Hays County, generally located west of the intersection of Old Ranch Road 12 and Wonder World Drive, from "FD" Future Development District to "SF-4.5" Single Family - 4.5; and including procedural provisions.

5. Consider approval of Ordinance 2020-07, on the second of two readings, amending section 2.191 of the San Marcos City Code relating to the composition of the Historic Preservation Commission; including procedural provisions; providing for the repeal of any conflicting provisions; and providing an effective date.

6. Consider approval of Resolution 2020-32R, approving an agreement with Texas State University, San Marcos Consolidated Independent School District, and Hays County providing for the joint funding of a contract with Community Action, Inc. of Central Texas to provide personnel to serve as a youth services director to administer youth services and programs for the benefit of the City and such entities; authorizing the City Manager or his designee to execute the agreement; and declaring an effective date.

Mayor Pro Tem Mihalkanin abstained from a vote as he is employed by Texas State University.

7. Consider approval of Resolution 2020-33R, approving an agreement with Community Action, Inc. of Central Texas to provide personnel to serve as a Youth Services Director to administer Youth Services and Programs for the benefit of the City, Texas State University, San Marcos Consolidated Independent School District, and Hays County in an amount not to exceed $110,000.00, to be jointly funded by the City and such other entities, with a participation amount for the City not to exceed $50,000.00; authorizing the City Manager or his designee to execute the agreement; and declaring an effective date.

Mayor Pro Tem Mihalkanin abstained from a vote as he is employed by Texas State University.

8. Consider approval of Resolution 2020-37R, approving an Airport Facility Lease Agreement for Non-Commercial Use with McCoy Corporation for property located at 1521 Airport Drive at the San Marcos Regional Airport for an initial term of ten years with options to renew totaling thirty years; authority the City Manager or his designee to execute the Lease Agreement; and declaring an effective date.

9. Consider approval of Resolution 2020-38R, approving the appointment of the Animal Services Manager Jeanne Saadi as the Local Rabies Control Authority as required by Texas Health and Safety Code 826.017; and declaring an effective date.

10. Consider approval of Resolution 2020-39R, approving a Change in Service to the agreement with the Quetel Corporation to provide for the renewal of evidence management software for use by the San Marcos Police Department and authorize three additional annual renewals in the amount of $29,265.00 for a total contract price of $161,125.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-39R. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

11. Consider approval of Resolution 2020-40R, approving a Change in Service to the agreement with MCCI, Inc. to renew the Laserfiche software license and application in the estimated annual amount of $30,509.15 and authorizing three one-year renewal periods for a total estimated contract price of $154,522.35; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.

12. Consider approval of Resolution 2020-41R, approving a Change in Service to the agreement with Solid Border, Inc. to provide for additional hardware and a one-year software license to upgrade the City's security infrastructure through the Department of Information Resources Cooperative Purchasing Program (Contract No. TSO-4095) in the amount of $49,230.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.

13. Consider approval of Resolution 2020-42R, approving a Change in Service to the agreement with LNV, Inc. relating to design and construction services for the Blanco Gardens Improvement Project to convert existing overhead electric lines to underground lines in the amount of $61,770.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.

14. Consider approval of Resolution 2020-43R, approving an addendum to the Master Lease/Purchase Financing Agreement with US Bancorp Government Leasing and Finance, Inc. that adds eighteen 2020 Police Chevrolet Tahoes and two 2020 Chevrolet Silverados to be financed under the Agreement in the amount of $678,973.23, inclusive of interest, for a three-year term; authorizing the City Manager or his designee to execute all appropriate documents associated with this transaction; and declaring an effective date.

15. Consider approval of Resolution 2020-44R, awarding a contract to Caldwell Country Chevrolet through the BuyBoard Cooperative Agreement (Contract No. 601-19) for the purchase of eight Chevrolet Tahoes and two Chevrolet Silveradoes for the police department in the amount of $300,614.60; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

16. Consider approval of Resolution 2020-45R, awarding an Indefinite Delivery Indefinite

Quantity (IDIQ) Master Contract for Concrete Construction Services to Ace Company in the estimated annual amount of $200,649.00 and authorizing two additional one-year renewal periods for a total estimated contract price of $601,947.00; authorizing the City Manager or his designee to execute the contract documents on behalf of the City; and declaring an effective date.

17. Consider approval of Resolution 2020-46R, approving the appointment of the Law Firm Davidson Troilo Ream & Garza, P.C. as special counsel during Fiscal Year 2020 to advise the Ethics Review Commission as required when the Commission receives a complaint against a member of City Council or one of the City Council's appointees; and declaring an effective date.

18. Consider approval of Resolution 2020-47R, approving a Change in Service to the agreement with MSHANA Group doing business as ARIESPRO for completion of a meter data management system designed to assist the City's water utility monitor water loss and ensure compliance with applicable regulations in the amount of $10,000.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.

PUBLIC HEARINGS

19. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Resolution 2020-48R, approving Substantial Amendment No. 9 to the Community Development Block Grant-Disaster Recovery (CDBG-DR) Action Plan that modifies the eligibility criteria for Single Family Housing Assistance to include any qualifying flood damage home in the City, and changes the activity category of the Blanco Riverine Project from "Construction" to "Acquisition"; 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 2020-48R.

Carol Griffith, Community Initiatives Program Administrator, provided a recap of Substantial Amendment No. 9 to the Community Development Block Grant - Disaster Recovery (CDBG-DR).

Mayor Hughson opened the Public Hearing at 9:18 p.m.

There being no comments, the Mayor closed the Public Hearing at 9:18 p.m.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-48R. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

20. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Resolution 2020-49R, adopting the Community Development Block Grant-Mitigation ("CDBG-MIT") Action Plan that provides for the allocation of the $24,012,000 from the United Stated Department of Housing and Urban Development; authorizing the City Manager, or his designee, to act as the Official Representative of the City in matters related to the CDBG-MIT Program and Action Plan, and declaring an effective date; and consider approval of Resolution 2020-49R.

Carol Griffith, Community Initiatives Program Administrator, provided the Council with the Community Development Block Grant-Mitigation ("CDBG-MIT") Action Plan.

The Mayor open the Public Hearing at 9:49 p.m.

There being no comments, the Mayor closed the Public Hearing at 9:49 p.m.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to approve Resolution 2020-49R. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

21. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Resolution 2020-50R, approving a third amended and restated Development Agreement in connection with the La Cima Development near the intersection of Old Ranch Road 12 and Wonder World Drive to, among other things, add 129.383 acres of land to the area covered by the agreement, reduce the project density from 1.16 to 1.10 dwelling units per acre, enlarge the area within which the originally allowed 720 multi-family units may be located from 30 acres to any part of the area designated in the conceptual land use plan as community commercial, and allow Condominiums as new use only by a conditional use permit approved by the City Council, authorizing the City Manager, or his designee, to execute the agreement on behalf of the City; and providing an effective date; and consider approval of Resolution 2020-50R.

Michael Ostrowski, Assistant Director of Development and Services, provided a brief presentation.

Mayor Hughson opened the Public Hearing at 9:36 p.m.

Those who spoke:

Marvin Wills, representing the Wills tract, stated this land has been in his family since 1937. His grandmother tried to give the land back to the lender but they told her to just pay what she could, he stated there is an emotional attachment to the property. He believes La Cima fit their goal and will make effort for best use of the property. He asked Council to support this project.

Mike Dallas, broker for this property, spoke in support of this project and thanked the Council for their time.

There being no further comments, the Mayor closed the Public Hearing at 9:39 p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Derrick, to approve Resolution 2020-50R. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 1 - Council Member Marquez

NON-CONSENT AGENDA

22. Consider approval of Resolution 2020-51R, approving the appointment of Guillermo S. Trevino to the position of Assistant City Attorney; and declaring an effective date.

Human Resources was notified shortly before the meeting that Mr. Trevino withdrew his application for consideration of the Assistant City Attorney position.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to postpone Resolution 2020-51R indefinitely. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

23. Consider approval of Resolution 2020-52R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 31 acres of land generally located on the East Side of Highway 123, between Monterey Oak Drive and Old Bastrop Highway; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a public hearing

concerning the proposed annexation of said tract of land; and declaring an effective date.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-52R.

Shannon Mattingly, Director of Development Services provided a brief presentation of the proposed development between Old Bastrop Highway and Monterrey Oak Drive. The motion to approve carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

24. Consider approval of Resolution 2020-53R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a public hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to approve Resolution 2020-53R.

Shannon Mattingly, Director of Development Services, provided a brief presentation on the proposed development located at the intersection of Gregsons Bend and Commercial Loop. The motion to approve carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

25. Consider approval of Resolution 2020-54R, amending the Community Development Block Grant (CDBG) Action Plan for program year 2019 adopted by Resolution No. 2019-121R to reallocate $67,142.00 from the Unsafe Structures Program to the amount allocated for the Southside Community Center Rehab Program, 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.

A motion was made by Council Member Gonzales, seconded by Council Member Derrick, to approve Resolution 2020-54R.

Carol Griffith, Community Initiatives Program Administrator, provided a brief presentation regarding the reallocation of $67,142.00 from the Unsafe Structures Program to the amount allocated for the Southside Community

Center Rehab Program. The motion to approve carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

26. Receive a Staff presentation regarding, and consider by motion, the initial authorization of Phase 2 of the San Marcos Development Code annual update, and provide direction to the City Manager.

A motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve the initial authorization of Phase 2 of the San Marcos Development Code annual update with the following changes:
1. Removal of the amendment to rename Neighborhood Density Districts
2. Addition of the amendment to remove parking exemptions for projects with 10 or fewer units in CD-5 and CD-5D
3. Addition of an amendment to remove the provision that allows on street parking to count toward multifamily requirements in CD-5D.
4. Addition of an amendment to require conditional use permits for accessory dwelling units.
5. Addition of an amendment to limit the height of commercial buildings to one-story when adjacent or across the street from single-family zoning districts.
6. Addition of an amendment that states the city's preference for durable building materials

The motion to approve carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

27. Receive a Staff presentation and consider, by motion, removal of the the San Marcos Development Code proposed amendments which were not recommended for additional analysis at the June 5, 2019 joint (Planning and Zoning Commission/City Council) work shop, and provide direction to the City Manager.

A motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve removal of the San Marcos Development Code proposed amendments which were not recommended for additional analysis at the June 5, 2019 joint (Planning and Zoning Commission/City Council) work shop with the following changes:
1. Addition of the amendment to rename Neighborhood Density District
2. Addition of the amendment to maintain parking exemptions for projects

with 10 or fewer units in CD-5 and CD-5D.

The motion to approve carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

28. Consider appointments to fill vacancies on the following Boards or Commissions, and provide direction to staff:

A. Animal Shelter Advisory Board - COSM Official (Animal Services Manager)
B. Historic Preservation Commission
C. Housing Authority
D. Convention & Visitor Bureau Board - Food/Beverage Establishment Representative

The following appointments were made:

A. Animal Shelter Advisory Board - COSM Official (Animal Services Manager) - Jeanne Saadi

B. Historic Preservation Commission - Ryan Perkins, Laura Kennedy, and Cindy Meyer

C. Housing Authority - Richard Cruz

D. Convention & Visitor Bureau Board - Food/Beverage Establishment Representative - Monte Sheffield

The motion to approve these appointments carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

29. Hold discussion and receive a report from the Criminal Justice Reform Committee, including draft legislation supporting a Cite and Release Program, and provide direction to the City Manager.

Mark Rockeymoore, provided a brief update and thanked the committee and staff for their work on this Cite and Release Ordinance. He spoke of his own personal experience and the effect it had on his life. He understands the necessity of this Ordinance.

There are three decision points on this item today. They include the following: Shall we move forward with Ordinance or Resolution? Council consensus was to bring back in Ordinance form.

It was noted that no other city in Texas has adopted an ordinance on this

topic; a few have by resolution.

Should the wording in Section 1 include items 4-7? Council provided consensus to keep the entire list in the ordinance:
SECTION 1
1. Class C misdemeanors other than public intoxication, assault, or family violence.
2. Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor
3. Driving while License Invalid, Class B misdemeanor
4. Criminal Mischief, Class B misdemeanor (less than $750.00)
5. Graffiti, Class A or Class B misdemeanor (less than $2500 or $750)
6. Theft of Property, Class B misdemeanor (less than $750.00)
7. Theft of Services, Class B misdemeanor (less than $750.00)

Should the word "only" remain in Section 2?

Council provided consensus to keep the word "only" in Section 2.

An Ordinance on first meeting will be brought back at a later date that does not coincide with any student Spring Break holiday.

EXECUTIVE SESSION

30. Executive Session in accordance with Section § 551.089 - Security Devices: to discuss Security Measures and Deployment of Information Resources Technology.

Executive Session was not needed this evening.

DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION

31. Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:
Section § 551.089 - Security Devices: to discuss Security Measures and Deployment of Information Resources Technology.

Mayor Hughson stated direction was provided to staff during Executive Session this afternoon.

VI. Question and Answer Session with Press and Public.

None.

VII. Adjournment.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to adjourn the regular meeting of the City

Council on Tuesday, March 3, 2020 at 10:18 p.m. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor

City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes
City Council

Tuesday, March 17, 2020 | **6:00 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 Hughson at 6:04 p.m. Tuesday, March 17, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

Absent: 1 - Council Member Joca Marquez

III. Invocation

Rev. J.D. Elshoff, with First Baptist Church, provided this evening's invocation.

IV. Pledges of Allegiance - United States and Texas

Deputy Mayor Pro Tem Rockymoore led the assembly in the pledges of allegiance.

V. 30 Minute Citizen Comment Period

Michelle Carbajal, spoke against the cite and release ordinance. She stated that she was born and raised in San Marcos. She stated that she is a local business owner and her family has been in San Marcos since the 1960s when her dad went to Texas State University. She mentioned that her family owns a historical building on the Square. She mentioned that in the 1980s her father and a friend purchased three buildings on the Square to help revitalized downtown San Marcos. We are invested in the community. She stated that they are part of the Downtown Association, Main Street Program and Hays County Historical Commission. She mentioned that she and several business owners oppose this cite and release ordinance. She mentioned she wants police to have discretion and they rely on the officer's authority and judgment in our community. She stated that to we need to trust the officers that they have been

trained to make appropriate judgment calls. She mentioned that we rely on them in so many ways in our community and we do not want to tie their hands enforcing the law. She mentioned that as a business owner, she wants to feel confident if she has been a victim of a crime that San Marcos Police Department will come to investigate the crime and take appropriate actions. She gave an example of someone drew graffiti or broke a window to my family's building it is not a victimless crime. She asked if you knew if a person gets a cite and release, the numbers are 40% of the time, they do not show up to respond to the crime they have committed. This percentage in some communities, is much higher. She mentioned that she has been a licensed surety in Hays County for 15 years and she knows the side effects that cite and release can have in a community. She mentioned that her family has 40% less chance in getting restitution from the correctly identified person for the damages done to the building downtown on the Square. She asked if the City of San Marcos is doing everything in their power to protect business owners and property owners. She stated to also trust the Police Department, to let them do their job that they were trained to do.

David Mendez, stated he is a proud Rattler and a concern citizen. He provided a list of failures to appear in court to Council. He is a bondsman for over 40 years kept on the services in Hays County. He stated the cite and release ordinance to have in place will show data but also show individuals are not going to court. He mentioned that these individuals are PR in the Sheriff's Office but when they get a PR bond they are not monitored by any individual which is a lawyer or a bailbond agent. He stated that the issue is if they are getting the slap in the hand and not paying for consequences, the jail is going to be filled of individuals of bond forfeitures and failure to appears. He stated that for a bonding company when one is incarcerated that is titled a forfeiture, we are going to ask for more collateral so they can show up for court. He stated that some are not able to afford getting out because the judge is going to increase their bond and now the jail system is going to be crowded with failure to appears and this is happening and not being monitored and going to fail to go to court. He mentioned that the judge will see if the individual is on the run from the court and judge will increase bail and how many times is the judge going to increase the bail and will stay in jail. He stated that he understands that the City wants to help the system, but creating this and the data shown are going to continue fail to appear in court.

Roland Saucedo, He stated that he has been contacted by numerous citizens, life long residents of San Marcos and people that are multigenerational. He mentioned that most of the disturbing thing is how full support that four

council members are in favor of the cite and release ordinance as proposed by Mano Amigo but not proposed by the citizens nor drafted by staff. He stated that the draft was created by Mano Amigo and they do not represent the citizens of San Marcos but only a portion of citizens that live in San Marcos and do not represent the San Marcos citizenry. He mentioned that nobody in Barrio Pescado, nobody in Blanco Gardens, nobody in Rio Grande Terrace, nobody in Sunset Acres, nobody in Cottonwood Creek, nobody in Mockingbird Hill, nobody in Hill of Hays neighborhoods and those neighborhoods are affected by crime. He asked Council to hold a workshop before moving forward. He urged Council to have all the facts, coordinate with the County with regards of timeline and the process of the diversion program and how the magistrate judge will work on this. He supports the cite and release but not in support of theft of services or theft of property. He stated that he is a Christian and in the 10 commandments, it says "thou shalt not steal". He mentioned that he has been on both sides of the law, he has been arrested multiple times, lost job because he couldn't go to work the next day because he couldn't get out early. He mentioned that he doesn't blame that on the system but blames himself and that was his choice he made. He stated God gives us freewill and I made a choice to break the law so I have to suffer my consequences. He urged Council to take the San Marcos citizenry into consideration.

Rodrigo Amaya, thanked the speakers that have heard in the workshops. He stated the first thing on his list is the City Manager has a description "response to citizens that have complaints" in #4 on his duties. He stated that he has had a bad experience, he used to call his office and spoke to Karen Smith and now she has a secretary, some individual named Hayden Migl. He mentioned that he is not happy with the results that he has been getting from him. He mentioned that he has been asking if he can sit with his supervisor and I was informed that they have created an executive team. He stated that he attended the Criminal Justice Reform commeittee meeting and is very concerned and the statements that were coming back from the Chiefs. He recalled one statement Chief said "paperwork gets lost", he stated when you have someone in jail and the paperwork gets lost, that individual shouldn't be employed. He mentioned that paperwork shouldn't be getting lost specially when someone's freedom is on the line. He stated that US Constitution grants you get fair trials. He mentioned that he has experience in law enforcement issues. He thanked Mano Amiga for their efforts but if you want to look at something productive is to use the City of Austin Office of Police Oversight, those officers are trained to assisted with law enforcement related issues, he recommends Council to look into that. He stated that he needs a meeting with the City Manager

because his subordinates are not cutting it. He mentioned that he is concerned with agenda #15, $300,000 for La Cima second fire station.

Jordan Buckley, spoke in favor of cite and release, he stated that the Collin County Sheriff asked not to bring petty criminals to jail. He mentioned that we should have an urgency of having a policy to keep people out of jail when it's not necessary. He stated that Ms. Carbajal wants the police department to investigate, that will take place with the cite and release but that person won't go to jail for a day or two, but there is still restitution, there will be a summons to court to deal with their criminal case. He stated Mr. Mendez who is a bailbonds man has a financial incentive not to allow cite and release. He stated that Mr. Amaya said we should look to Austin for guidance, he stated that is what they have done. He mentions that elected officials in San Antonio, Houston and Austin have said to go with an ordinance. He stated that Collin County with crimes that the Sheriff has said not to arrest are trespassing or public intoxication, our ordinance doesn't include those. He stated that the neighborhoods has not been consulted, it's been a year that the draft ordinances has been in the Criminal Justice Committee. He stated that they have forms at the Library, Cephas House, Calaboose Museum, multiple times on campus. When there was a poll taken by the San Marcos Daily Record to take away discretion, what the ordinances doesn't do, instead it guides discretion but 63% of poll correspondence will support an ordinance that did do that. He stated that the ordinance provides guidance to the officers to make citations but only in cases of disqualifying circumstances, which Chief Stapp has citied "as fairly exhaustive". That does allow officers to exercise discretion that fits the case for them to be arrested instead of cited if they have that option. He mentioned that the San Marcos Police Department leadership has had 9 months to come up with the list of disqualifying circumstances.

PRESENTATIONS

1. Receive a presentation from Deliotte and Touche, LLP on the Community Development Block Grant-Disaster Recovery (CDBG-DR) Quarterly Internal Audit Report, and provide direction to Staff.

Heather Hurlburt, Finance Director, provided a brief introduction to the CDBG-DR Quarterly Internal Audit Report. Kathie Schwerdtfeger with Deloitte and Touche, LLP provided the 3rd quarter reports that include the executive summary, summary of risk assessment results, and the 2020 annual audit plan. The 4th quarter report included an executive summary, observations and recommendations, and management response and corrective action plan.

2. Receive the Annual Audit Report and highlights from the City of San Marcos' Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended September 30, 2019 from the City's audit firm ABIP, P.C.

Heather Hurlburt, Finance Director provided a brief introduction to San Marcos Comprehensive Annual Financial Report (CAFR). She introduced Jeremy Barboto with ABIP, P.C., who presented the audit and stated that they did not find any issues during their review. He stated that the Auditor's opinion was unmodified which is the highest level of assurance the auditor can give. He stated that the General Fund balance increased by $978,000 due to increase of property taxes and sales tax revenues.

3. Receive a Staff presentation of the Quarterly Investment and Financial Reports, and provide direction to City Manager.

Heather Hurlbert, provided a presentation on the Quarterly investment and Financial Reports.

Revenue Highlights:
General Fund-Favorable $628K or 1.7%
• Sales tax collections above forecast $319K due to collections above budget for the Outlet Malls and Best Buy
• Property Tax collections above forecast due to timing

W/WW-Favorable $467K or 4.3%
• Primarily due to current services revenue

Electric-Favorable $726K or 5.1%
• Primarily due to timing of pole attachment revenue and revenue generated by the Ferguson Power Plant

Stormwater Management-Unfavorable $202K or 12.1%
• Primarily due budgeted rates different from actual rates since new rates/rate structure not implemented

Resource Recovery-Favorable $110K or 9.6%
• Primarily due to customer counts higher than budgeted

Expenditure Highlights:
General Fund-Favorable $2.0M or 9.7%
• Primarily due to personnel savings and the timing of economic development incentive payments

W/WW-Favorable $396K or 6.5%
• Primarily due to contract payment timing

Electric-Favorable $1.4M or 10.1%
• Primarily due to personnel savings, cost of energy savings, and contract payment timing

Stormwater Management-Favorable $119K or 18.4%
• Primarily due to timing of capital purchases

Investment Balance for First Quarter 2020 is $276.4 Million
Investment Balance for Fourth Quarter 2019 was $272.8 Million

CONSENT AGENDA

A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Mihalkanin, to approve the consent agenda, with the exception of item #8 which was pulled and considered separately. The motion carried by the following vote:

For:	6 -	Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales
Against:	0	
Absent:	1 -	Council Member Marquez

4. Consider approval, by motion, of the following meeting Minutes:
A. February 4, 2020 - Regular Meeting Minutes
B. February 27, 2020 - Budget Policy Workshop Meeting Minutes
C. March 3, 2020 - Work Session Meeting Minutes

5. Consider approval of Resolution 2020-55R, approving an agreement with the Leadership San Marcos Class of 2021 providing for its members to construct a cat barn at the San Marcos Regional Animal Shelter at no cost to the city; authorizing the City Manager, or his designee, to execute the agreement; and declaring an effective date.

6. Consider approval of Resolution 2020-56R, approving the City Council's Strategic Initiatives for Fiscal Year 2020-2021.

7. Consider approval of Resolution 2020-57R, approving an agreement with Enterprise Fleet Management, Inc. through the Texas Interlocal Purchasing System (TIPS) for the lease of thirty-seven light vehicles and the purchase of miscellaneous equipment and maintenance in the estimated amount of $1,650,000.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

8. Consider approval of Resolution 2020-59R, approving a grant agreement with the United States Department of Justice in the amount of $50,000.00 to assist the City's Police Department by providing funding to identify and secure a Criminal Justice Information Services (CJIS) compliant information sharing platform; authorizing the City Manager or his designee to execute the grant agreement on behalf of the City; and declaring an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Resolution 2020-59R. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

9. Consider approval of Resolution 2020-58R, approving the sale of a tract of property identified as the Southwesterly 28 feet of Lot 5, Block 11, C.D. Wallace Subdivision, (Hays CAD Parcel ID No. R47051), City of San Marcos, Hays County, Texas acquired by the San Marcos Consolidated Independent School District for Unpaid Taxes, to Ganymede Enterprises, LLC for $3,200.00; authorizing the execution of any deed or instruments necessary to complete the sale; and declaring an effective date.

10. Consider approval of Resolution 2020-60R, approving an agreement with Freese and Nichols, Inc. for the preparation of a Risk and Resilience Assessment and Emergency Response Plan for the City's Water Infrastructure as required by the Federal America's Water Infrastructure Act in the estimated amount of $124,600.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

11. Consider approval of Resolution 2020-61R, approving an agreement with Stanley Consultants, Inc. relating to the San Marcos Electric Utility Master Plan Project in the estimated amount of $400,000.00; authorizing the City Manager or his designee to execute the agreement; and declaring an effective date.

12. Consider approval of Resolution 2020-62R, approving an agreement with San Juanita Rosario Vela appointing her as the Interim Finance Director in a not-to-exceed amount of $75,000.00 through September 15, 2020; and declaring an effective date.

13. Consider approval of Resolution 2020-63R, approving a release of easements in the Cottonwood Creek Subdivision, subject to the dedication to the city of alternate easements, as appropriate; authorizing the City Manager, or his designee, to execute the release of easements on behalf of the city; and declaring an effective date.

14. Consider approval of Resolution 2020-64R, approving a release of easement in

connection with the Riverstone Apartments development at 1430 Wonder World Drive, subject to the dedication to the City of Alternate Easements, as appropriate; authorizing the City Manager, or his designee, to execute the release of easements on behalf of the City; and declaring an effective date.

15. Consider approval of Resolution 2020-65R, approving a second change order amendment to the participation agreement with Lazy Oaks Ranch, LP (La Cima) providing for the extension of a roadway to the new Fire Station in the La Cima development with a cost participation amount by the City of up to $300,000.00; authorizing the City Manager, or his designee, to execute said amendment; and declaring an effective date.

16. Consider approval of Resolution 2020-66R, approving a change order to the construction contract awarded to Santa Clara Construction, Ltd. for construction of sewer mains in the Edwards Aquifer Recharge Zone to decrease the total contract price by $123,929.52; authorizing the City Manager or his designee to execute the appropriate documents to implement the change order; and declaring an effective date.

17. Consider approval of Resolution 2020-67R, approving an agreement with Freese and Nichols, Inc. for engineering design services related to a new Lift Station No. Five in the estimated amount of $100,651.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

18. Consider approval of Resolution 2020-68R, confirming the City Manager's appointment of George R. Landry to the San Marcos Civil Service Commission; and declaring an effective date.

19. Consider approval of Resolution 2020-69R, directing publication of a notice of intention to issue certificates of obligation in the amount of approximately $50,500,000 for constructing, improving, designing, acquiring and equipping the city's (1) water and waste water system; (2) electric utility system; (3) streets including related drainage, sidewalks, traffic improvements and lighting; (4) municipal buildings to include the City Hall and other city facilities, HVAC improvements, roof replacements and security improvements; (5) stormwater management and flood control facilities; (6) airport, including hangars; (7) public safety facilities to include police and fire station improvements and a new ladder truck and engine; (8) network and fiber optic infrastructure equipment; (9) recreational facilities including parks and sports fields; (10) city cemetery including land acquisition; (11) animal shelter; (12) parking including land acquisition; and (13) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation and other matters related thereto.

20. Consider approval of Resolution 2020-70R, adopting revised Investment Policies for Operating Funds and Reserve Funds; and declaring an effective date.

PUBLIC HEARINGS

21. Receive a Staff presentation and hold a Public Hearing to receive comments for or

against Ordinance 2020-08, approving annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop; and consider approval of Ordinance 2020-08, on the first of two readings.

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation.
Mayor Hughson opened the Public Hearing at 7:20 p.m.
Those who spoke:
Ed Theriot, represented the applicant and spoke in favor of this annexation.
There being no further comments, the Mayor closed the Public Hearing at 7:21p.m.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-08, on the first of two readings. The motion carried by the following vote:

For:	6 -	Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales
Against:	0	
Absent:	1 -	Council Member Marquez

22. Receive a Staff presentation and hold a public hearing to receive comments for or against Ordinance 2020-09, amending the Official Zoning Map of the City by rezoning approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregsons Bend from “FD” Future Development District and “GC” General Commercial District to “PA” Planning Area District; and including procedural provisions; and consider approval of Ordinance 2020-09, on the first of two readings.

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation.
Mayor Hughson opened the Public Hearing at 7:25p.m.
Those who spoke:
Ed Theriot spoke in favor of this rezoning and thanked staff for working with them.
There being no further comments, the Mayor closed the public hearing at 7:26p.m.

The planning area district allows for uses on the property that comply with employment district requirements. It allows for light industrial, but this is not the intent. A sportsplex complex is the projected development. 8 baseball fields are projected to be built.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by

Council Member Derrick, to approve Ordinance 2020-09, on the first of two readings. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

23. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-10, annexing into the City approximately 31 acres of land, generally located on the east side of Highway 123 between Old Bastrop Road and Monterrey Oak Road; including procedural provisions; and providing an effective date; and consider approval of Ordinance 2020-10, on the first of two readings.

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation.
Mayor Hughson opened the Public Hearing at 7:47p.m.
Those who spoke:
Chris Weigand, was present to answer any questions and spoke in support of this project.
There being no further comments, the Mayor closed the Public Hearing at 7:47p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-10, on the first of two readings. The motion carried by the following vote:

For: 5 - Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 1 - Council Member Derrick

Absent: 1 - Council Member Marquez

24. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-11, amending the Official Zoning Map of the City by rezoning approximately 12.5 acres of land generally located North of the intersection of Highway 123 and Monterey Oak Drive, from “FD” Future Development District to “CD-3” Character District 3; and including procedural provisions; and consider approval of Ordinance 2020-11, on the first of two readings.

Shannon Mattingly, Director of Development Services, provided a brief presentation.

The Mayor opened the Public Hearing at 7:57p.m.

Chris Weigand, spoke on behalf of the applicant and in favor of this project.

There being no further comments, the Mayor closed the Public Hearing at 8:00p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-11, on the first of two readings.
Mayor Hughson stated her concern with CD-3 and that she cannot support it as is because this is next to a SF-6 neighborhood and the CD-3 zoning category due to the problems with CD-3 since the LDC was adopted. This is because the Character Districts only have 6 categories of housing, two of which are very low density. She asked that the Planning Department create a new CD-3 category which includes occupancy restrictions for Phase 2 of the LDC changes. She did not propose changing the existing CD-3. CD-3 allows for too many housing types.

Councilmember Derrick asked we can require the creation of a Home Owners Association (HOA) but we cannot.

Councilmember Derrick and Mayor Hughson asked that the staff and applicant work together to bring back as SF 4.5 or SF-6 at a later meeting. She also asked about waiving the reapplication fee if the developer wants to make the change. Council agreed.

The motion to approved failed by the following vote:

For:	2 -	Deputy Mayor Pro Tem Rockeymoore and Council Member Baker
Against:	4 -	Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin and Council Member Gonzales
Absent:	1 -	Council Member Marquez

25. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Ordinance 2020-12, amending the Official Zoning Map of the City by rezoning approximately 18.5 acres of land generally located North of the intersection of Highway 123 and Monterey Oak Drive, from “FD” Future Development District to “CD-4” Character District 4; and including procedural provisions; and consider approval of Ordinance 2020-12, on the first of two readings.

Shannon Mattingly, Director of Planning and Development Services, provided a brief presentation.
Mayor Hughson opened the Public Hearing at 8:17p.m.
Chris Weigand, spoke in favor of the item and provided a brief presentation of

the proposed development.
There being no further comments, the Mayor closed the Public Hearing at 8:20p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Baker, to approve Ordinance 2020-12, on the first of two readings. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

26. Receive a Staff presentation and hold a Public Hearing to receive comments for or against Resolution 2020-72R, approving a Budget Policy Statement for preparation of the 2020-2021 Fiscal Year budget; and declaring an effective date; and consider approval of Resolution 2020-72R.

Melissa Neel, Assistant Finance Director, provided a brief update to Council regarding the Budget Policy Statement for FY2020-2021.
Mayor Hughson opened the Public Hearing at 8:38p.m.
There being no comments, the Mayor closed the Public Hearing at 8:38p.m.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to approve Resolution 2020-72R. The motion carried by the following vote:

For: 5 - Council Member Derrick, Mayor Hughson, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 2 - Mayor Pro Tem Mihalkanin and Council Member Marquez

NON-CONSENT AGENDA

27. Consider approval of Ordinance 2020-13, on the first of two readings, amending Chapter 38 of the City Code titled Fire Prevention and Protection, of the San Marcos City Code by revising the local amendments recommended in the 2015 edition of the International Fire Code to include provisions relating to mobile food vending operations, gate access, signage, location of fire extinguishers in multi-family structures and requiring buildings in certain zoned areas of the City that have been impacted by a fire event to install fire-sprinkler systems prior to re-occupancy, among other revisions, to enhance public safety in the City; providing for the repeal of any conflicting provisions; and providing an effective date.

MAIN MOTION: a motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-13.

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to amend section 6804.2 (1.) by striking the words "on a daily basis" and replace with "at the end of each business day." The new section will read:
(1.) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris, and other waste attributable to the vendor at the end of each business day. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

MOTION TO APPROVE AS AMENDED: to approve Ordinance 2020-13, as amended, on the first of two readings. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

28. Consider approval of Ordinance 2020-14, on the first of two readings, adopting fees to be charged by the City for various Parks and Recreation Facilities, including changes to existing fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing and effective date.

A motion was made by Council Member Gonzales, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-14, on the first of two readings. Council asked staff to bring cost recovery up to at least 75% for non-residents for second reading. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

29. Consider approval of Ordinance 2020-15, amending Section 34.080 of the San Marcos City Code to establish an administrative fee and provide for the collection of costs related

to the filing of a nuisance abatement lien; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

MAIN MOTION: a motion was made by Council Member Baker, seconded by Council Member Derrick, to approve Ordinance 2020-15, on the first of two readings.

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Council Member Baker, to amend section 34.080 Section 1 (b) to include the addition of a $50 fee if the City has to file a lien.
This section will read as follows:
(b) The director will execute a statement of the costs of abatement, including an administrative fee of $150.00 established by the city council, and file the statement as a lien with the county clerk of the county in which the lot is located. The statement will reflect all costs to process the abatement including the cost to file the lien. The statement must include the name of the owner, if known, and the legal description of the lot. When a lien is filed, there will be an additional $50.00 fee.

The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

MOTION TO APPROVE AS AMENDED: to approve Ordinance 2020-15, as amended, on the first of two readings. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

30. Consider approval of Ordinance 2020-16, on first and final reading, ordering a Special Election to be held on May 2, 2020 for the purpose of filling a vacancy for the remainder of the unexpired term of office of City Council Member, Place 5; establishing early voting locations and polling places for this election; making provisions for conducting the election; declaring an emergency creating the need to adopt this ordinance with only one reading; and providing an effective date.

MAIN MOTION: a motion was made by Council Member Derrick, seconded

by Deputy Mayor Pro Tem Rockeymoore to approve Ordinance 2020-16, on first and only reading.

MOTION TO AMEND: A motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore, to amend the Ordinance by removing Ledgestone Senior Living as a polling location. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

MOTION TO APPROVE AS AMENDED: to approve Ordinance 2020-16, as amended, on first and final reading. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

31. Consider approval of Resolution 2020-73R, approving a lease agreement with Theodore Breihan, doing business as Ted Breihan Electric Company, for the lease of approximately 10,140 square feet of space along Edward Gary Street, east of South LBJ Drive with a rental rate of $3,500.00 per year for five years; authorizing the City Manager, or his designee, to execute said lease; and declaring an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Derrick, to approve Resolution 2020-73R. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

32. Consider approval of Resolution 2020-71R, approving the renaming of El Camino Real Park to Kenneth M. Copeland Memorial Park; authorizing the City Manager to install any signs and recognition plaques reflecting the new name of the park as may be appropriate; and declaring an effective date.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to approve Resolution 2020-71R. The motion

carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

33. Discuss and consider the appointment of Council Member Baker to fill a vacancy on the Census 2020 Complete Count Committee, and provide direction to staff.

Deputy Mayor Pro Tem Rockeymoore nominated Council Member Baker to fill a vacancy on the Census Complete Count Committee. Mayor Pro tem Mihalkanin seconded the nomination. The motion to appoint Council Member Baker carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

34. Hold discussion regarding Arts Commission Recommendation Resolution 2019-03RR to consider amendments to the Permanent Art Rules, and provide direction to Staff.

Charlotte Wattigny, Innovation Manager, provided a brief update on the recommendation of the art commission to amend their Ordinance regarding the allocation of hotel occupancy tax funds being utilized for public art and not just permanent display art. The commission would like to utilize funds for major art forms.

Council provided consensus to move forward with this recommendation. Staff will bring this back for formal adoption by Ordinance at a future meeting.

EXECUTIVE SESSION (if necessary)

35. Executive Session in accordance with the following Government Code Section(s):

A. Section § 551.087 - Economic Development: to receive a staff briefing and deliberate regarding Project Barker
B. Section §551.071 - Consultation with Attorney: to discuss Legal considerations of anti-discrimination ordinance

A motion was made by Council Member Baker, seconded by Council Member Derrick, to postpone executive session to a future available date. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION

36. Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:

A. Section § 551.087 - Economic Development: to receive a staff briefing and deliberate regarding Project Barker
B. Section §551.071 - Consultation with Attorney: to discuss Legal considerations of anti-discrimination ordinance

A motion was made by Mayor Hughson, seconded by Council Member Derrick, to postpone action as there was no executive session. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

VI. Question and Answer Session with Press and Public.

None.

VII. Adjournment.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Derrick, to adjourn the regular meeting of the City Council on Tuesday, March 17, 2020 @ 10:05p.m. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

Tammy K. Cook, Interim City Clerk **Jane Hughson, Mayor**

City of San Marcos

Special Meeting Minutes
City Council

Tuesday, March 31, 2020 | **6:00 PM** | **Virtual Meeting**

This meeting was held using conferencing software due to the COVID-19 rules.

I. Call To Order

With a quorum present, the special meeting of the San Marcos City Council was called to order by Mayor Hughson at 6:03 p.m. Tuesday, March 31, 2020. This meeting was held virtually.

II. Roll Call

Present: 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

Absent: 1 - Council Member Joca Marquez

EXECUTIVE SESSION

1. Executive Session in accordance with Texas Government Code - Section 551.071 - Consultation with Attorney: To receive legal advice from the City Attorney regarding proposed Ordinance 2020-17 to repeal Ordinance 2020-16 that previously ordered a special election to fill a vacancy in City Council Place 5 for May 2, 2020.

Mayor Hughson reordered the agenda and Council received the status reports and updates on response to COVID-19 pandemic and held discussion prior to going into Executive Session.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to enter into Executive Session at 6:58 p.m. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

REGULAR AGENDA

2. Receive status reports and updates on response to COVID-19 pandemic; hold council

discussion, and provide direction to Staff.

This item was presented prior to going into Executive Session.

Bert Lumbreras, City Manager, gave a brief introduction of the COVID-19 item. Chase Stapp, Director of Public Safety, provided status reports and updates on response to COVID-19 pandemic.

Updates to Governor Abbott's Actions:
• March 25 - Waiver of certain licensing and regulatory requirements
- Allowance for facilities with pending license applications to operate under the license of another licensed facility
- Allowance for a remote hospital to be operated further than 30 miles away from main licensed hospital
- Waiver of certain licensing renewal requirements for nurses to include a grace period for license renewals
• March 26 - Executive Order related to travel
- Applies to people travelling to TX from or through an airport in the NY Tri-State area, the states of California, Louisiana, Washington, and the cities of Atlanta, GA, Chicago, IL, Detroit, MI, and Miami, FL.
- Requires 14-day self-quarantine

Efforts to date (updated)
• River parks closure
– park playscapes, Dog Park, Skate Park, park public restrooms are also closed
– open spaces remain open with social distancing
• City Council and Planning and Zoning Commission meetings held in virtual environment
• Business information line active: 512.393.5930
– Call volume has been light (10 calls on Monday 3/30 by 1:30 p.m.)
– Calls generally center around clarification of essential business functions and "should my employer still be open?"
• County email "hotline" active: CitizenComments@co.hays.tx.us
• Daily Council email updates and message board additions
• Multiple State of Texas Assistance Requests (STAR) pending

Other local efforts
• San Marcos Consolidated Independent School District closed until at least April 13
– Distance education in place

• Texas State University dorm move-out in progress
– Remote instruction beginning Monday, March 30 through end of semester
• Enhanced City Website with resources
– Addition of COVID-19 dashboard on Monday 3/30

Additional City Actions
Posters reminding people to wach their hands after touching gas pump and other handles have been distributed to local businesses as applicable.

Upcoming considerations
• Researching options to provide support for people experiencing homelessness due to many public restrooms being closed
– Possible partnership with Southside Community Center
• Finalizing arrangements for potential bed space for quarantine and hospital overflow

New emergency Order considered by Mayor Hughson
Intended to mimic County Order to reduce confusion
– Discussion – should it pertain to gas stations like the City of Kyle order?
• Occupancy limit of 10
• Minimum distance requirements (6-feet spacing)
• Required hand sanitizer station and/or attendant required at entrance
• Doors remain open or opened by attendant
Council decided to continue with the education campaign and posters and not require door handles to be continually sanitized or left open or opened by an attendant.

Councilmember Baker expressed concern about physical distancing and the recent study at the University of Texas at Austin showing the benefit of cutting down contacts by 90 percent.

Councilmember Gonzales inquired about our local buses. Mr. Stapp noted that sanitizing is being done in addition to physical distancing.

Councilmember Rockeymore inquired about towing companies towing cars. They are on the Governor's list of Essential Services and therefore are required to maintain the social distancing regulations.

Financial Assistance Follow-up:
Implemented Strategies/Underway
• Temporarily Halt Utility Service Disconnections for Nonpayment (evaluate

after 90 days)
• Offer Utility Bill Payment Arrangements
• Waive Utility Bill Late Fees (evaluate after 90 days)

Council noted that publicizing these items will be appreciated by all.

Strategies Requiring Additional Analysis
• Re-allocate CDBG Funds - Consolidated Annual Action Plan must be amended to change any planned use of funds.
• Grants and Loans - Promoting Federal grant and loan programs including Economic Injury Disaster Loan (EIDL) and Payroll Protection Loans created through the Coronavirus Aid, Relief, and Economic Security (CARES) Act.
• Strategic Initiative Funding / Special Economic Development Fund - Focus on federally-funded programs first before considering local funding from General Fund revenues which could potentially jeopardize ability to fund current staffing levels.

Items for consideration by Council will be on the April 7 meeting:
– Consider emergency ordinance requiring landlords to provide a notice to tenants that they have a right to cure a rent delinquency within XX days (60 or 90 depending on council's direction) before having to move out
– Consider emergency ordinance raising the City Manager's spending authority to $500,000 during the COVID-19 pandemic
– Consider emergency ordinance waiving late fees for non-payment of Hotel Occupancy Taxes (evaluate after 90 days)
– Hold discussion on budget amendment for purchase of test kits and personal protective equipment for residents

3. Consider approval of Ordinance 2020-17, repealing Ordinance 2020-16 that ordered a Special Election to be held on May 2, 2020 for the purpose of filling a vacancy for the remainder of the unexpired term of office of city council place five; giving public notice that a new date for conducting a Special Election to fill the vacancy will be ordered by adoption of a subsequent ordinance, with new filing deadlines, due to the current COVID-19 pandemic; declaring an emergency creating the need to adopt this ordinance with only one reading; and providing an effective date.

Mayor Hughson stated Executive Session concluded at 7:16 p.m.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Council Member Gonzales, to approve Ordinance 2020-17, on first and final reading. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

III. Adjournment.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to adjourn the special meeting of the City Council at 7:26 p.m. The motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

Tammy K. Cook, Interim City Clerk **Jane Hughson, Mayor**

City of San Marcos

Meeting Minutes
City Council

Tuesday, April 7, 2020 | **3:00 PM** | **Virtual Meeting**

Meeting Held Using Conferencing software due to the COVID-19 rules.

I. Call To Order

With a quorum present, the work session meeting of the San Marcos City Council was called to order by Mayor Hughson at 3:07 p.m. Tuesday, April 7, 2020. This meeting was held virtually.

II. Roll Call

Council Member Marquez arrived after roll call at 5:15 p.m.

Present: 6 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

Absent: 1 - Council Member Joca Marquez

PRESENTATIONS

1. Receive a project update and hold discussion on the pre-development services relating to the new Public Services Center, and provide direction to the City Manager.

Bert Lumbreras, City Manager stated that two presentations will be held this evening:
• An update on the Public Services Center project, and
• A follow-up briefing on motor-assisted scooters.
Both of these presentations were scheduled for the March 17 work session and postponed when that meeting agenda was changed to provide a COVID-19 update.

The Council received a presentation regarding the proposed Public Service Center last November. During that briefing, staff provided some of the details of the facility including location, conceptual layout, cost projections, financial capacity, and procurement process.

Design has continued over the past few months, and the presentation is an

update prior to the Guaranteed Maximum Purchase Price and contract coming to Council in June. This briefing includes:
• listing the departments that will occupy the Public Service Center and rationale for any changes;
• highlighting some of the environmental features that will make the facility more sustainable; and
• outlining next steps including upcoming waiver/exception requests and contract consideration.

The presentation also went over some of the points provided in the memo sent to you last Friday which outlined the financial considerations for this project and summarized staff's recommendation to proceed.

There are many reasons to continue this project including the condition of the existing facilities, the fact this project has been in the works since 2007, and the amount of resources the City has already committed to get to this place.

We also think we may be able to benefit from lower borrowing costs and possibly lower construction costs in the current environment.

The facility will be paid for from Enterprise Funds and the General Fund, but it is structured in a way that allows the General Fund time to recover from the current economic conditions. This funding strategy has also been reviewed by the City's financial advisor.

Mr. Lumbreras turned the presentation over to Tom Taggart, Director of Public Services.

Mr. Taggert advised the Council that there have been some changes to the plan. After further review of operational needs for Parks Maintenance staff, it makes more sense to keep them centrally located near the 40 acres (current location of Parks Maintenance equipment –near the Animal Shelter).
• Water quality moving out of their current facility frees ~ 3,850 sqft of office and work space adjacent to the 40 acres that fits the needs of the Parks and Rec. Maintenance staff (converted former animal shelter bldg.).
Advantages
• Near perfect functional fit for both office and workspace
• Improved efficiency for P&R staff travel time utilization
• Provides additional day one expansion space at Public Service Center
• Preserves building footprint expansion for anticipated 15 year growth
• Avoids ~$1M+ increase in project costs

• Consolidates Parks & Rec staff, equipment, storage yards adjacent to 40 acres

There was no opposition to this change by the Council.
Staff to be located at the new facility are: Public Services – 217, General Services – 22 for a total of 239.
Facility Capacity/Life/Growth profile
• The facility will be designed to house the 2021 staffing level space requirement with associated parking, vehicle needs, and equipment
• The facility site plan includes additional area for staff expansion and building expansion room with additional square footage to serve a City population of 110,000 (15 years)
• Future additional facilities could be at satellite locations or this location with reallocation of existing parking, storage or other areas.

Mr. Taggart provided an update on the proposed facility and next steps, including:
Latest Department Occupany/Functional Benefits
Updated Site and Building Designs

Earl Swisher and Rodney Moss, of the Hunt Companies, Inc. provided a video of the 3D model flyover with an internal flythrough of the administration building along with images of the interior.

Proposed Sustainability Measures
HVAC with economizer and outside air demand control ventilation, Low flow plumbing fixtures, Four 30,000 gallon rainwater capture cisterns, Additional daylighting in the Utility Building and Warehouse, 500 KW rooftop solar panels on utility building (not included in current pricing) and solar panel design.

Environmental Savings Summary
Estimated Annual Environmental Savings Results:
580 Tons of Carbon Dioxide, 110 Cars Removed from Road, 59,920 Gallons of Gasoline, 13,520 Trees Planted, 50 Homes Powered, 11,790 Light Bulbs Powered

Upcoming Waiver Requests
Block length waiver to allow for security purposes, no roadway bisecting the property between Clovis Barker and FM110, Partial landscaping/tree requirement waiver, Parking count and parking island waiver, Perimeter fence

in front of utility building, Permit and Development Fees

Latest Project Cost Estimates
Total $44M which includes construction Cost* $34.5M, Design Cost $2.5M, Furniture Fixtures & Equipment Cost $2.0M, Fees/Soft Cost $3.6M, Financing Cost $1.4M. This does not include concrete for laydown yard alternate ($400K) and solar panels alternate ($750K)

Melissa Neel, Assistant Director of Finance, provided the presentation on financial capacity analysis, funding considerations and the procurement process. This included the shared costs between the General Fund, Electric Fund, Water/Wastewater Fund, and the Drainage Fund.

Paul Acevedo, with Jacobs Company, provided information on the procurement process and the project development timeline.

The council agreed to include concrete for the laydown yard alternate($400K) and solar panels alternate (750K)
• City decided to procure project via Design-Build-Finance Method
• Project to be implemented in Two Phases to maximize flexibility
– Phase 1: Validation of Scope, Schedule, Budget
– Phase 2: Implementation of Final Design and Construction
• Currently working through Phase 1 with end goal of Guaranteed Maximum Purchase Price (GMPP) agreement
• GMPP proposal negotiations based on 100% Design Development documents due early April
• Final estimate due/ GMPP proposal negotiations to begin early May
• Contract award recommendation and final GMPP Proposal to be presented at a June Council Agenda
• Financial Close and Phase 2 to begin after Council approval

Staff recommends continuation of project as planned and will ask council to consider the exception requests and the guaranteed maximum price proposal agreement at a future meeting.

Rodney Moss Senior Vice President with Hunt responded the additional amount that will incur between now and June.
Council consensus is to include exemptions that were requested, solar panels and use concrete instead of gravel.

2. Receive a Staff presentation and hold discussion regarding motor-assisted scooters, and provide direction to the City Manager.

Bert Lumbreras, provided a brief introduction regarding motor-assisted scooters and regulations regarding their use in the City.

This is a follow-up to the January 7 discussion during the second reading of the Ordinance prohibiting the use of motor-assisted scooters on public property. The second reading was tabled that evening for further discussion.

Additional public safety statistics from San Antonio and Austin have been provided previously as well as a policy overview from the National League of Cities. This information shows that cities have approached the issue in many different ways.

However, the underlying reason for staff's recommendation to prohibit all scooters remains the same. The current state of our infrastructure, including the availability of sidewalks and bicycle lanes, is not adequate for individuals to safely use the devices.

This public safety concern also precludes differentiating how public scooters are handled compared to those privately owned.

With this item, staff is seeking direction on how Council would like to proceed. Mr. Lumbreras turned the presentation over to Lee Hitchcock, Director of General Services.

Mr. Hitchcock provided a brief history, best practices, public safety concerns, infrastructure limits, and capacity limitations.

Staff recommends the prohibition all motor-assisted scooters.

The Council consensus is to prohibit "for profit" scooters but allow personal use. Staff will make changes accordingly to the ordinance and place on a future agenda.

EXECUTIVE SESSION

3. Executive Session in accordance with the following Government Code Section(s):

A. Section §551.074 - Personnel Matters: to discuss the Appointee Review Process
B. Section §551.071 - Consultation with Attorney: to seek legal advice concerning a request for consideration by council of an anti-discrimination ordinance

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore to enter into Executive Session at 4:50 p.m. The

motion carried by the following vote:

For: 6 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Absent: 1 - Council Member Marquez

III. Adjournment.

Mayor Hughson stated Executive Session concluded at 6:17 p.m.

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Mayor Pro Tem Mihalkanin, to adjourn the work session meeting of the City Council at 6:17 p.m., April 7, 2020. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Tammy K. Cook, Interim City Clerk **Jane Hughson, Mayor**

City of San Marcos

Meeting Minutes
City Council

Tuesday, April 7, 2020 | **6:00 PM** | **Virtual Meeting**

Meeting Held Using Conferencing software due to the COVID-19 rules.

I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Hughson at 6:18 p.m. Tuesday, April 7, 2020 in the City Council Chambers, 630 E. Hopkins, San Marcos, Texas 78666.

II. Roll Call

Present: 7 - Council Member Melissa Derrick, Mayor Jane Hughson, Mayor Pro Tem Ed Mihalkanin, Council Member Joca Marquez, Deputy Mayor Pro Tem Mark Rockeymoore, Council Member Maxfield Baker and Council Member Saul Gonzales

III. Invocation

A moment of silence was observed.

IV. Pledges of Allegiance - United States and Texas

No pledges were held this evening.

V. 30 Minute Citizen Comment Period

The following comments were submitted as written comments and read aloud during the citizen comment portion of the meeting:

Linda Alexander:
"I was born in Houston and have lived in several large cities and a few smaller ones, moved to San Marcos with one of the major local employers over 49 years ago. I've raised two children in San Marcos, graduated from SWTSU and am and always will be an active community volunteer and am a longtime supporter of the San Marcos police department and it's dedicated police officers. I have followed the Cite & Release issue for the last several months and researched its use in several cities and states and believe San Marcos is not ready to adopt a C&R Ordinance yet. I do, however, as a result of my research, support further investigation into its purpose, implementation and consequences. I feel strongly that the City Council should be careful not to

impose a Cite & Release Ordinance on our police officers that will effectively take away their discretion to use other means of law enforcement if they feel C&R is not appropriate. Furthermore, I feel that if we mandate a C&R policy, we may be causing our citizens possible victimization or retaliation from criminals and criminal activity. For example, if we permit C&R in lieu of arrest for some thefts or illegal possession of stolen items or worthless checks under a specific value, how can the harmed citizen be made whole? We may be inadvertently creating situations for repeated criminal activity, perhaps involving the same citizens, if the offender feels there is no real consequence. Another result in a Cite & Release policy can be the high rate at which offenders fail to appear for their scheduled court date, which was as high as 40% in one Texas county between 2009 and 2012, compared to a 15.3% failure to appear rate for offenders during the same period who were booked and released (Plohetski, 2013). It appears that some of our City Council members appear to have personal agendas as to why they are anxious to vote for an Ordinance without more study and research into cities who have tried to implement C&R and are not happy with it or are choosing not to implement it. There is a very vocal organization named Mano Amiga who is pushing Cite & Release as an Ordinance, rather than even considering further study or research. It seems obvious, from my observations and their comments at community meetings I've attended, that they are primarily interested in students who are caught with illegal possession of illegal amounts of marijuana. My primary concern is that we should always show trust in our police officers to uphold the law and give them the authority to take whatever actions they deem necessary to protect and serve our law-abiding citizens. When we take that discretion away and mandate through an Ordinance that they must C&R low levels of criminal activity, we are effectively tying their hands and taking away their effective enforcement of the law. This has been shown in other cities who have experimented with Cite & Release and found it to be a mistake. If you vote to make this a City Ordinance, you will be ignoring the safety and protection of our citizens by potentially allowing offenders to become repeat offenders against law abiding citizens with only minor warnings. Example: Repeated theft of personal property to pay for illegal drug use. Another example brought up at a recent City Council meeting: Two offenders, one local citizen, another living in nearby jurisdiction that results in the local offender being Cited and Released while the other offender is handed over to nearby jurisdiction and arrested for the same offense. Depending on the ethnicity of the arrested offender, perceived discrimination can result. (Comments were limited to three minutes, time expired)

Crystal Benavides:
"Dear council members, my name is Crystal Benavides, I'm a San Marcos native, home owner, mother, community volunteer, tax payer, Notary Public, HOA board member & self-employed REALTOR. I've grown to love this town very much. I continue to stay here and encourage others to follow suit. I'm writing this comment to express my viewpoints on why I'm strongly AGAINST the Cite and Release Ordinance. I know many in favor of this ordinance solely focus on the marijuana aspect of this and say it's a "Victimless Crime" But as the Secretary of Park North HOA and condo owner I am speaking out to say that we in fact have 62-unit owners that were affected and still deal with the stigma and fear it has caused our residential community. We were burdened with two (2) murders here, in August 2018 and Feb. 2019, both were confirmed to be Marijuana related. We have spent a large portion of money to add an electric meter and cameras to help ease our members along with more fencing and implementing other security measures. This still can't take away the fear that we live with every night since we heard that gun shot and sirens so close to home. Out of the last 17 murders in San Marcos 9 were marijuana related. Majority of marijuana comes from Mexico and includes drug cartels, human trafficking, and hostage situations. Victims are used to transport drugs as a payment for their way into the US. As leaders of our city please do not encourage this activity. We are going to drive that type of business to come here. Marijuana possession between 2 - 4 ounces is in my opinion and the opinion of many law enforcement officers and members of the public more than personal consumption. Majority of this quantity of marijuana is for the sale and distribution for a profit. If any type of marijuana absolutely must be included in this cite and release program please limit it to under 2 ounces. The officers currently reported approximately 300 cases of diversion already implemented by destroying the marijuana on camera. This is a policy that they have in place to handle these types of cases. Please open your hearts and hear our concerns in regards to this issue. The identification portion of the proposed ordinance is very troublesome. As a Notary Public, identification is a big portion of holding my oath to office. I have to be sure, without a reasonable doubt that the person signing before me is who they say they are. This is done to protect the public and to ensure fraud is not occurring. When I read the portion of allowing school IDs or other forms of picture IDs that are not government or state issued and do not contain an issue date and expiration date, and/or allowing utility bills, etc. as a means of identification, it makes me feel that you are now taking law into your own hands and superseding State Law which requires anyone over the age of 18 to have identification. This could also leave room for fake identifications to be created. There is no reason a person living, or going to school, in this city/county is not capable of

obtaining the proper documentation. Many of my clients that contact me for notarization or to purchase property are not legal citizens and are still able to get a government issued ID called a Matricula Consular. If they can do this then others that have the ability to get an Identification card here in the US should have no problem in obtaining one. The proposed cite and release ordinance does not include all of the other cities in the county. This agenda should be led by the County as a united front. It also would allow the County to be prepared and to discuss and implement a diversion program. At this point that has not been created and it seems you're putting the cart before the horse. The County is still in the discussion phase because it will take a complete overhaul to implement this program. They currently do not have the manpower to keep up with the additional citations, they are overloaded with their current workload as it is. Current workers will need to work overtime and/or need to hire more employees. (Comments were limited to three minutes, time expired)

Sylvia Sanchez:
"I write to you to voice concern about the decision council is making concerning cite and release in Ordinance 2020-18. The state authorized this type of release in 2007 to help with jail populations. Another important benefit is to allow those that allegedly commit a crime avoid the harshness of an arrest and conviction on their record when coupled with the county cite and divert program and other programs the county uses. Having said that I do not see any type of limit placed on how many times an eligible "resident" is allowed to commit a crime and avoid an arrest. A mistake and opportunity to rectify it once is understandable, more than once may be considered as akin to condoning the behavior. Furthermore, it may be assumed that the 40% who fail to respond to citation and fail to appear are not as concerned about rectifying their mistake. A warrant arises and that person is then arrested at some point. The current ordinance without a limit could result in an endless repetition of this cycle affording the benefit of no arrest to an eligible resident that continues criminal behavior. There must be a limit. A second concern is a comment made by the city attorney at the 10/15/19 city council meeting about a confidential memo sent to council concerning legal issues and unintended consequences. At a criminal justice committee meeting dated 7/16/19, there is an entry where the city attorney states that "current wording in the draft could have various unintended violations of state laws and open parties to possible civil suits." Can the council assure San Marcos taxpayers and citizens that the proposed Ordinance 2020-18 will not open parties to civil lawsuits or result in violation of state laws? Lastly is the struggle I saw in the two public city council meetings (10/15/19 and 3/3/20) involving officers who realize loss of

discretion directed in this ordinance could lead to confusion and unintended consequences. The ordinance in Section 2 is comprised of 2 paragraphs. The two paragraphs contradict each other. In the paragraph at bottom of page 1 the ordinance gives officers the discretion that is authorized in state law. The next paragraph reduces that discretion to only 6 reasons for arrest. State law affords an officer discretion, not only for those items enumerated in Ordinance 2020-18. I do not believe an ordinance can reduce discretion authorized by state law. I thank council for their time and consideration."

Anna Carbajal:
"I am writing to OPPOSE this ordinance. I have been a resident of San Marcos for over 9 years. I was born and raised here. My family is very involved in our community. We have invested in this community. My family owns several buildings in the San Marcos community along with a historical residence. We are not strangers here. I have a family here. I want to keep that family safe. Council, we want San Marcos to be safe. Your ultimate duty is public safety. Failure to maintain order in our community will not yield safety in our public. I believe the Cite and Release Ordinance 2020-18 will give people MORE opportunity to commit crimes. While I do agree that some people may be a good candidate for just a citation, others ARE NOT. They continue to commit crimes because they do not care. They also realize that they will get off pretty easily if they continue to steal what is not theirs from others. I ask that you VOTE NO to the passage of this Cite and Release Ordinance 2020-18. Let the officers decide how they will handle these crimes as we have always allowed. As a community member, I WANT you to take care of my family. Passing this ordinance means that my family means nothing to you. If you are my elected official, do the right thing and vote NO to this ordinance. Victims and the San Marcos community deserve better! I want my two children who are born and raised in San Marcos and who attend the San Marcos ISD to feel safe and to know they will not fall victim to defendants who just don't care.

Bryan Garcia, I have been a Democrat all my life. I have always believed in giving a hand UP but not a hand OUT. I believe the Cite and Release Ordinance 2020-18 is a hand OUT. This HAND OUT should not be given to people who REFUSE to follow the law. It is not hard to be a law-abiding citizen. I believe people who refuse to follow the law should be punished accordingly whether they have money or no money. I also support our local law enforcement. I believe they should have the ultimate discretion to decide how they want to handle the defendant. It is up to the courts to determine if they should provide the defendant with an option to get this off his or her record or not, if they are deserving of it. I think people need to work hard to

prove themselves. If they are just given this HAND OUT, there is no work on their part. They are not going to be held accountable. They are not going to show up to court. They will just keep committing crimes over and over because they know they will not suffer much of a consequence. I do not think that the council, as an elected body, should make law enforcement decisions. Those decisions should be left to the very people trained, hired, and prepared to do the law enforcement tasks. We all need to stay in our lanes. This lane, council, is not yours. You should continue to legislate and make the laws and ALLOW the officers to retain their discretion. Therefore, I oppose the cite and release ordinance. I do not agree that you should pass that ordinance. I would hope you would consider this response in your decision-making. You have all been elected by the people. To keep victims (law abiding citizens) whole, you should not pass this ordinance. Support your law enforcement."

Cristina Zamora:
"My husband, the late Aguinaldo Zamora, and I lived through the civil rights movement of the 60-90s in our efforts to desegregate the schools, create single-member districts and fight the discrimination of our time. My husband was viewed as a threat and a troublemaker by many in our community for many years. A decade later after the desegregation suit was won did many in the community begin to have respect for my husband and I for what we fought for in our community. The injustices we lived through and time has taught us that yes, the doors had to be opened for many in our community. We later saw that many walked through and achieved great things with the education THEY achieved. An open door was only but a step that led to success. Commitment and dedication, study, hard work and personal sacrifices, led many the rest of the way. So, we arrive at the Ordinance 2020-18. Yes, we wish to open the door as it should be. As we saw in the system of education not every child walked through the door. Some were unable and others unwilling to do what was necessary to get a degree, start a career and achieve their dream. That is the reality that time has allowed us to see. This ordinance is similar in that opportunities for correcting a mistake should apply to all those that are eligible. But consideration should be given to the reality that some will overcome with such an opportunity and for those the struggle is just and right. Others will choose the opposite. In reforming the system there must be a balance between public safety for all citizens, the rights of victims, and the role of law enforcement. Society expects that its citizens will follow the law and if they don't consequences will follow. In my view, this ordinance is more about achieving a guaranteed outcome which leads to avoidance of an arrest for those who choose to continually break laws. Is the guaranteed outcome meant to condition offenders to avoid consequences? If so, that type of system will

not work properly in protecting all interested parties. The successful system works when the desired affect occurs spontaneously and not because it is forced. The desired effect here is to give the opportunity for an offender to "fix" the mistake, learn from the mistake and not repeat the mistake. How do we enforce the consequences of repeating mistakes if not by limiting the application of cite to the first offense? I oppose Ordinance 2020-18."

Nina Stanfield:
"In response to the Cite and Release Ordinance with the first reading occurring on April, 7, 2020, I am writing to OPPOSE the passage of this ordinance. The ordinance WILL CAUSE the following problems:
1. IF RESTITUTION CAN BE RECOVERED AT ALL, restitution to victims is NOT immediate and it causes victims great inconvenience to try and recover it.
2. Repeat Offenders will ONLY be cited. There is no fear of arrest. They will continue to commit the crimes because there is little to no consequence.
3. FAILURE TO APPEAR rate on citation only offenses is 40%. Most Perpetrators DO NOT show up to respond to his/her citation.
4. 40% Failure to Appear Rate ENSURES 40% of the Victims will not be able to seek restitution until the offender is even located again (if at all).
5. When issuing Citation by ordinance, there is NO positive or certain identification on those defendants. No booking in jail, no photograph, and no fingerprints - Perpetrator can LIE about his/her identity.
6. LIMITS DISCRETION OF OFFICERS, which should NOT happen!

I ask that you VOTE NO to the passage of this Cite and Release Ordinance. No other city has done this, and there are clear reasons why. Trust your officers. Let them do the job that you are paying them to do. Keep our community safe and support your police officers. Those that do the crime MUST pay for their actions. PERPETRATORS must be held accountable. Agreeing to such an ordinance will greatly affect victims and will place perpetrators at an unfair advantage to continue to prey on the innocent."

Naomi Narvaiz:
"My hope is that each of you are doing well in spirit and health. I appreciate the work you are doing to keep our citizens informed. As you may know, my constant endeavor is to advocate for limited government in the lives of law-abiding citizens and safety for us and our posterity. For this reason, I find myself writing to you to address Agenda Item # 18 regarding Ordinance 2020-18 - increased use of cite and release. According to the MEMO sent to you by Chase Stapp, Public Safety Officer, detailing the results of a January

meeting that the committee on Criminal Justice held. According to that memo, #1, the CJC did not agree that an ordinance is the answer. #2, there was no unanimous consent regarding the violations or offenses that should be considered and with all honestly, they 'kicked the can' back to you. This is an indication that they do not want the responsibility to fall on them for any poor decision made that would hurt the community. #3, the committee did not support the language. Instead, it appears they support the officers using discretion. Reading that, I am taken back that Mano Amiga is mentioned in this memo. Mano Amiga's opinions or allegations should not be considered or supportive. This organization is anti-law and anti-police, spread misinformation, advocate for the release of criminal aliens and now want to influence you to support handcuffing our officers to their agenda.They are NOT the face of our community and do not represent the majority of San Marcos citizens. I urge you to reject this ordinance and instead continue to work with our SMPD leadership and engage more community citizens to bring sensible recommendations that will protect our citizens and community. Offenses classified as A, B, or C misdemeanors are committed by individuals who go on to committing more serious crimes. The victims must not be forgotten. Law abiding citizens should not have to worry about being around individuals who cause them bodily harm, having their valuables stolen, criminal trespass, harassment, indecent exposure and the many other crimes that end up costly individuals mental, physical, and property harm. Please remember that this would affect each of you and your loved ones as well. You were elected to be leaders and make the right decisions for our community. Reject Agenda Item 18 and support our San Marcos Police Officers and keeping them safe in all regards as well."

Rolf Straubhaar:
"I know that tonight's meeting, you will be taking the first of two votes on the proposed cite and release ordinance. I want to voice my enthusiastic support for this ordinance, one that can reduce unnecessary incarcerations of low-level offenses that inordinately affect our fellow citizens of color, disrupting their lives, potentially affecting their employment, and creating unnecessary trauma for both those arrested and their friends and families. I also want to thank council members Mark Rockeymoore, Maxfield Baker, Melissa Derrick and Joca Marquez for the support you showed for the ordinance last month, and I hope that support continues tonight. I would invite Mayor Jane Hughson, alongside council members Ed Mihalkanin and Saul Gonzales, to join your colleagues in support for the ordinance. Thank you for your service, and for your time in listening to this message."

Jay Stiles:
"The current health crisis is devastating by itself but it has also engendered a financial crisis that will seriously damage our communities. It is important that we deal with these circumstances vigorously and in consideration of the monetary impact to us all. San Marcos gets a large portion of its revenues from Sales Tax Rebates, Hotel Occupancy Taxes and Property Taxes. Sales tax inflows will be very significantly reduced with the Outlet Malls and many other businesses closed or seriously curtailed. This and a large reduction in Hotel Occupancy tax inflows will make a large shortfall of revenue a certainty. Does our city have contingency plans to deal with this? And if not is the City now preparing contingency plans based on our current conditions, and further plans that can be triggered if the crisis deepens more? It would be comforting to hear what plans there are for cutting expenses, even if it means a reduction of services, delaying projects or even cancelling them. The city made a difficult but good decision to put on hold a salary increase for city workers, but I am dismayed that the city has announced it will go to the credit markets to borrow more than 50 million dollars if the Council votes to move forward at a meeting scheduled for June 5th. The debt proposal announcement included: "The City presently proposes to provide for the payment of the certificates of obligation by the levy of ad valorem taxes, within the limits prescribed by law…The following information is required … to be provided by the City (excludes $215,180,000 in principal amount of outstanding debt obligations that the City has designated as self-supporting and which the City reasonably expects to pay from revenues sources other than ad valorem taxes; provided, however, that in the event that such self-supporting revenue sources are insufficient to pay debt service, the City is obligated to levy ad valorem taxes to pay such debt obligations. We are facing drastically reduced revenue which could potentially affect our ability to service our debt. This in turn may require raising our ad valorem (property) taxes. And we are now aiming to add to our debt…again based on raising our property taxes to pay for it! But our property taxes are already very high and valuations are likely to fall due to this crisis. Any additional debt is ill advised at this time and needs to be carefully scrutinized with the aim to hold the total amount to a bare minimum. San Marcos must "live within its means". Thank you."

Lisa Marie Coppoletta:
"Your agenda should be only focusing on a global pandemic. Since you placed cite and release on the agenda, here goes. For several months cite and release has been a hot topic with racial discrimination as the focal point. And, I've been up here talking about the sidewalk and abuse of power. Cite and release will not be effective unless we take an examination of Bert, who often thinks

he's the emperor of San Marcos versus the City Manager. I think it's time to tell my story. Of all the public speakers on this issue over past several months, have you ever heard of the city manager posting a police officer in front someone's house for 3 days in a row all day, for hours a day, and harass any person who tries to take a photo of your yard being butchered after a secret meeting Bert had with some neighbors on my block, breaking his promise for neighborhood meetings. Wasting taxpayer time and intimidating land owners and residents. Have you had the city repeatedly trespass knocking on your door to sign documents that only the land owner is authorized to sign? And refusing to cease and desist after months of requests to refrain from trespassing on my front porch banging on my front door. Or, have you been the target of your neighbors, filing false reports against you, when video footage from three cameras verifies who was really trespassing and attempting to resort to physical violence. Officers can make discretion in the field, its Bert's abuse of authority I'm concerned with cite and release does not come to terms with the fact that following bad orders is not a great position to place our law enforcement personnel. My other concern is that the way that the situation was conducted on St Patrick's day how police were used by the city manager against small businesses downtown. Why did the city not go thru the Chamber of Commerce? Why were small businesses downtown targeted first versus those on IH35? Sending a memo out at 6:02 PM regarding a 5:00PM order is not in good form when it's enforced with the San Marcos Police Department. Let's work together as a community. Not pitting law enforcement against people trying to live peacefully in their homes or run a small business downtown. Thank you for your time and God Bless San Marcos."

Sara Lee Underwood-Myers:
Who protects protecting us from the drug users and drug dealers in San Marcos? Vote NO ON THIS AGENDA ITEM TODAY. DO not GIVE ANY excuses for users and dealers to NOT GO TO JAIL! DARE to stand up and make the difference in our neighborhoods!"

Dana McAuliffe:
"I would like to speak for people who are having trouble paying rent due to being laid off and having trouble accessing the unemployment website or telephone. I know a person who was laid off from a local restaurant who can't get through to claim unemployment, and who also will probably have to wait a long time for the stimulus check since she does not have a bank account and will have to wait for a check. Her apartment is telling her if she doesn't pay $400.00 right now (which she does not have) she will have to pay late fees. It would be very helpful if the apartments do not take action for a set period of

time, defined by City Council. Thank you."

Salana Henderson:
"I am writing to speak against the proposed cite and release ordinance. As a citizen of San Marcos and a mother of three teen-aged children, my concerns are genuine, and I hope that my expressing them does not adversely impact their validity. While no other city in Texas has passed cite and release as an ordinance, other cities in other states have, and we should take heed of the unintended consequences. In Los Angeles, San Francisco, Seattle, and other cities with cite and release ordinances, the leniency on low level crimes has crippled the ability of law enforcement to do anything about those crimes. Businesses struggle, crime increases, and the most vulnerable individuals are preyed upon. SMPD will tell you that we already have a problem with organized crime from other cities taking advantage of our location on the IH 35 corridor and our large population of inexperienced students. In Los Angeles, out of state organized crime rings are paying people, LA residents, to shoplift up to the cite and release eligible amount. They then take the goods out of state and sell them. How much of the city's income comes from sales taxes collected by the outlet malls located on IH 35? When it's cheaper for them to close than to continue to get ripped off, how will the city recoup the loss of that revenue? The passing of this ordinance will negatively affect every business owner in the city, not just retail establishments. It is a class C misdemeanor for an underage person to be in a bar. However, the ordinance states that a rent or utility bill may be used for personal identification (Section 2.2). Who will TABC hold responsible when SMPD can't remove the under-aged person from the bar? Moreover, is this time of economic uncertainty the time to pass an ordinance certain to burden the business community? If this ordinance passes, individual citizens will be just as effected as businesses, and it is the most vulnerable in the community who will suffer most. Desperate people will be most enticed to participate in cite and release eligible offenses for a quick pay day from organized crime. Proponents of the ordinance contend that those cited and released will still be held accountable for their crimes in court, so what will happen to those with numerous citations who can't afford to pay restitution? What could have been a night in jail and a hard lesson learned will lead instead to more injurious long-term consequences. I am not a callous person. I understand the havoc one night in jail can wreak on a person's life and am not trying to discredit or make light of anyone's experiences. My brother has been in jail for the past several weeks for offenses that would be eligible for cite and release under the ordinance. Although his crimes were "victimless," had he been released, he would still be exploiting my mother, a retired school teacher and widow on a very fixed

income. Suffice it to say, I am very familiar with the behavior of addicts. If they get a citation for stealing one person's lawn mower, they will just go on to the next. Nor do they steal from places they are likely to get caught, rather than from those who are least likely to take recourse against them. How will this ordinance affect those in our community who would rather not call the cops when they are the victims? Where is the empathy for them? Supporters of this ordinance argue that the purpose of this ordinance is to prevent people from becoming victims of the justice system. But who's looking out for the victims of these "low level" offenses. Voyeurism is a class C misdemeanor. When a woman catches a "peeping Tom" watching her undress through her bedroom window, how is she supposed to feel safe, knowing the perpetrator may come back for something much more egregious? The word "only" in Section 2 of the ordinance completely strips officers of their discretion, as they may only make an arrest when the narrow set of qualifying circumstances are met. (Comments were limited to three minutes, time expired)

Faylita Hicks:
"The city of San Marcos has a chance to protect the constitutional rights of its community members by ensuring they will not be unduly arrested and punished with imprisonment, before a court's official ruling, by enacting the cite and release ordinance. The list of citation-eligible offenses was approved at the state level 10 years ago. There has been more than enough time for the San Marcos Police Department to make the much-needed changes to lower the number of people being arrested for these offenses. The continued arrests for these citation-eligible offenses have contributed, in part, to the historic overcrowding of our county jail. This is why we must mandate their uniform use of cite and release today. "More than half of the Texas Criminal Justice Coalition's survey respondents reported an annual income of less than $10,000 before being arrested, and 4 in 5 reported an income of less than $30,000. Unnecessary jail stays exacerbate individuals' financial struggles, driving women deeper into poverty." This stat was one of several in Texas Appleseed's April 2019 report, How Texas Counties Could Save Millions of Dollars by Safely Diverting People From Jail. The report notes just how financially devastating unnecessary jail time can be for the individual, the city, and the county. A police officer's job is not to determine the guilt of an individual. It is not the city council's job to determine the guilt of an individual. Only the judge can decide who is guilty. The opponents of the ordinance are more concerned with immediate punishment--through the arrest of someone who has been accused but NOT yet found guilty by a judge--than they are about our constitutional right to be treated as innocent until proven guilty. Even the

argument that has been brought forth by opponents to the ordinance, concerning restitution, is disturbing. Restitution is not something the city council, or even the police, can legally address. The only one who can legally address it is a judge--and every person who is cited WILL have to appear before one. Arresting someone, who may be forced to stay in jail due to an inability to pay bail, is prematurely dolling out punishment to someone who has been accused, but may not be guilty. It can lead to the illegal detainment of indigent people, resulting in a debtor's prison, according to our Texas Consitution. An officer should be guided on how to avoid any possibility of these illegal detainments. According to the same 2019 report, failure to appear often happens because people do not have transportation or people are not provided with clear instructions on when and where to report. When people are provided with clear and simple instructions, and texted before their appearance date, you can improve court appearances by up to 23% according to the report. But again--court appearance concerns are not for the city council or the police to make a judgment on. It is the judge and the local court's job to improve communications with defendants and decide on adequate punishment, not the community, and not the officers. I ask that the city council protect the constitutional rights of their community members by ensuring they will not be unduly arrested and punished with imprisonment by enacting the cite and release ordinance today."

PRESENTATIONS

1. Receive a presentation and update on the following semi-annual Preferred Scenario Map Amendment application(s); and provide direction to staff:

PSA-20-02 (Riverbend Ranch) - Request to amend the Preferred Scenario Map from “Area of Stability-Low Intensity” to “Growth Area-Medium Intensity” for +/- 1,142 acres of land, located approximately at the intersection of North Old Bastrop Highway and Staples Road.

Shannon Mattingly, Director of Development Services, provided the Council with the Preferred Scenario Amendment (PSA) Application presentation for Riverbend Ranch.

Ms, Mattingly provided Council with an overview of the request and a schedule of upcoming meetings and public hearings.

The location of the property is located near the intersection of North Old Bastrop Highway and Staples Road. Approximately 1,142 acres Located within a Low Intensity Zone as designated on the Preferred Scenario Map

The request is a change from an area of Area of Stability-Low Intensity to Growth Area-Medium Intensity.

Proposed schedule:
• TBD: Neighborhood Commission Informational Meeting
• April 7th: City Council Informational Meeting
• April 14th: P&Z Informational Meeting
• April 28th: P&Z Public Hearing & Action
• May 19th: City Council Public Hearing (no action)
• June 2nd: City Council Public Hearing & Action
• June 16th: City Council Reconsideration

CONSENT AGENDA

A motion was made by Deputy Mayor Pro Tem Rockeymoore, seconded by Council Member Baker, to approve the consent agenda, with the exception of #2A which was postponed to a future meeting and #15, which was pulled and considered separately. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

2. Consider approval, by motion, of the following meeting Minutes:
A. March 3, 2020 - Work Session Meeting Minutes
B. March 17, 2020 - Emergency Special Meeting Minutes
C. March 24, 2020 - Special Meeting Minutes

3. Consider approval of Ordinance 2020-08, on the second of two readings, approving annexation of approximately 62.48 acres of land generally located at the intersection of Gregsons Bend and Commercial Loop, including procedural provisions; and providing an effective date.

4. Consider approval of Ordinance 2020-09, on the second of two readings, amending the Official Zoning Map of the City by rezoning approximately 62.48 acres of land generally located at the intersection of Commercial Loop and Gregsons Bend from “FD” Future Development District and “GC” General Commercial District to “PA” Planning Area District; and including procedural provisions.

5. Consider approval of Ordinance 2020-10, on the second of two readings, annexing into the City approximately 30.5 acres of land, generally located on the east side of Highway 123 between Old Bastrop Road and Monterrey Oak Road; including procedural provisions; and providing an effective date.

6. Consider approval of Ordinance 2020-12, on the second of two readings, amending the

Official Zoning Map of the City by rezoning approximately 18.5 acres of land generally located North of the intersection of Highway 123 and Monterey Oak Drive, from "FD" Future Development District to "CD-4" Character District 4; and including procedural provisions.

7. Consider approval of Ordinance 2020-13, on the second of two readings, amending Chapter 38 of the City Code titled Fire Prevention and Protection, of the San Marcos City Code by revising the local amendments recommended in the 2015 edition of the International Fire Code to include provisions relating to mobile food vending operations, gate access, signage, location of fire extinguishers in multi-family structures and requiring buildings in certain zoned areas of the City that have been impacted by a fire event to install fire-sprinkler systems prior to re-occupancy, among other revisions, to enhance public safety in the City; providing for the repeal of any conflicting provisions; and providing an effective date.

8. Consider approval of Ordinance 2020-14, on the second of two readings, adopting fees to be charged by the City for various Parks and Recreation Facilities, including changes to existing fees; providing a savings clause; providing for the repeal of any conflicting provisions; and providing and effective date.

9. Consider approval of Ordinance 2020-15, on the second of two readings, amending Section 34.080 of the San Marcos City Code to establish an administrative fee and provide for the collection of costs related to the filing of a nuisance abatement lien; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

10. Consider approval of Resolution 2020-75R, awarding a construction contract to Cash Construction Company, Inc. for the Main Lift Station Force Main Replacement Project in the total amount of $9,286,059.00; authorizing the City Manager or his designee to execute the appropriate documents relating to this contract on behalf of the City; and declaring an effective date.

11. Consider approval of Resolution 2020-76R, approving a Change in Service to the engineering services agreement with Alan Plummer Associates, Inc. (Contract No. 218-394) relating to the Sunset Acres Subdivision Drainage Improvements Project to add engineering design services for replacing wastewater lines along Lockwood and Candlelight in the estimated amount of $59,020.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the change in service; and declaring an effective date.

12. Consider approval of Resolution 2020-77R, approving a commercial office lease amendment with Two Fold, LLC for the lease of the Women, Infants, and Children (WIC) Satellite Office at 641 North Walnut Avenue, New Braunfels, Texas for the purpose of extending the lease term for two additional years with an increase in rent from $1,575 to $1,600 per month the first year and $1,625 per month the second year; and authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

13. Consider approval of Resolution 2020-78R, approving a fifth amendment to the Interlocal Agreement for Commercial Office Lease with Hays County for the Women, Infants, and Children (WIC) satellite office at 150 Lockhart Street, Kyle, Texas for the purpose of extending the lease term for five additional years; authorizing the City Manager or his designee to execute the amended interlocal agreement; and declaring an effective date.

14. Consider approval of Resolution 2020-79R, authorizing a participation in the U.S. Fixed Income Trust Investment Pools; designating authorized representatives; and declaring an effective date.

15. Consider approval of Resolution 2020-80R, approving a fourth amendment to the term sheet attached to Resolution 2014-143R regarding the advisability of the improvements in the Whisper Public Improvement District and declaring an effective date.

A motion was made by Mayor Hughson, seconded by Council Member Derrick, to approve Resolution 2020-80R. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

16. Consider approval of Resolution 2020-81R, approving the award of a contract to River City Power Washing for the cleaning of sidewalks in the downtown area of the City in the estimated annual amount of $18,000 and authorizing three one-year extensions for a total contract price of $72,000; authorizing the City Manager or his designee to execute the contract on behalf of the City; and declaring an effective date.

17. Consider approval of Resolution 2020-82R, approving a license agreement with E&T Real Estate LLC to allow the partial paving of a gravel section of Hillyer Street near Allen Street to a driveway standard to improve access to the lot at 1105 Hillyer Street; authorizing the City Manager, or his designee, to execute the license agreement on behalf of the City; and declaring an effective date.

NON-CONSENT AGENDA

18. Consider approval of Ordinance 2020-18, on the first of two readings, supporting the San Marcos Police Department's increased use of the cite and release process, when appropriate, instead of arresting individuals suspected of having committed certain misdemeanor offenses: requiring recordkeeping and reporting of use of the cite and release process and instances in which individuals have been arrested for cite and release eligible offenses; and providing an effective date.

MAIN MOTION: a motion was made by Council Member Derrick, seconded by Deputy Mayor Pro Tem Rockeymoore, to approve Ordinance 2020-18, on the first of two readings.

MOTION TO AMEND: a motion was made by Deputy Mayor Pro Tem Rockeymoore, to amend Section 2, item 3 of Ordinance 2020-18 by removing "There is reason to believe" and adding " The arresting officer believes" and removing "it shall be considered" and adding "the arresting officer shall consider". Section 2, item 3 will now read as follows:

"The arresting officer believes that the safety of persons (including the subject) would be imminently endangered by the release of the subject. In making this assessment, the arresting officer shall consider whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy."

The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to amend Section 2, paragraph 2 by removing the word "only". The section would read as follows:

"The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses if any of the following circumstances are present:"

The motion failed by the following vote:

For: 3 - Mayor Hughson, Mayor Pro Tem Mihalkanin and Council Member Gonzales

Against: 4 - Council Member Derrick, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Council Member Derrick, to add the following language in the last sentence of the second paragraph of Section 5, "using a citizen comment agenda item".

The section will read as follows:

"The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation and using a citizen comment agenda item."

The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Mr. Cosentino provided information about this ordinance regarding possible lawsuits against police officers.

MOTION TO AMEND: a motion was made by Council Member Derrick, seconded by Council Member Mihalkanin, to amend Section 2, paragraph 2 by removing the word "only". The section would read as follows:

"The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses if any of the following circumstances are present:"

The motion carried by the following vote:

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

Against: 3 - Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

MAIN MOTION: to approve 2020-18, on the first of two readings as amended. The motion carried by the following vote:

For: 4 - Council Member Derrick, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore and Council Member Baker

Against: 3 - Mayor Hughson, Mayor Pro Tem Mihalkanin and Council Member Gonzales

19. Consider approval of Ordinance 2020-19, requiring a landlord to provide notice of a proposed eviction action prior to issuing an actual notice to vacate and provide tenants a ninety day period to cure any delinquency as a result of the COVID-19 pandemic; creating an offense and penalty, providing for adoption of this Ordinance as an emergency

measure on only one reading; and providing an effective date.

A motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin, to approve Ordinance 2020-19, on first and final reading. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

20. Consider approval of Ordinance 2020-20, temporarily waiving the 15 percent late charge and the 1 percent per month interest charge for delinquent payment of Hotel Occupancy Taxes under Section 78.103 of the San Marcos City Code due to the COVID-19 pandemic; providing for adoption of this Ordinance as an emergency measure on only one reading; and providing an effective date.

A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to approve Ordinance 2020-20 on first and final reading. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

21. Consider approval of Ordinance 2020-21, amending section 2.566 of the San Marcos City Code to authorize the City Manager to approve certain contracts on behalf of the City for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 in amounts up to $500,000.00 without further City Council approval; including procedural provisions; providing for the adoption of this Ordinance on only one reading as an emergency measure; and declaring an effective date.

MAIN MOTION: a motion was made by Council Member Derrick, seconded by Mayor Pro Tem Mihalkanin to approve Ordinance 2020-21.

MOTION TO AMEND: a motion was made by Mayor Hughson, seconded by Mayor Pro Tem Mihalkanin, to amend Section 2.566 (a) by inserting the words “Except as, otherwise, provided in this subsection,”at the beginning of that section and amend Section 2.566 (a)(1) by adding the following statement "promulgated by Mayor Jane Hughson on March 15, 2020, and extended for an indefinite period by resolution of the city council adopted on March 17, 2020" and as the last sentence "The city manager shall notify the city council of any and all expenditures made under this subsection within three days of initiating the purchase."

The section will now read:
For the duration of the declaration of the local state of disaster related to COVID-19 promulgated by Mayor Jane Hughson on March 15, 2020, and extended for an indefinite period by resolution of the city council adopted on March 17, 2020, the city manager is authorized to contract on behalf of the city for the purchase of goods and services necessary for the preservation of the public health, safety and welfare in relation to COVID-19 for all budgeted items not exceeding $500,000.00 without further city council approval, provided such purchases are exempt from the competitive bidding or proposal requirements of Chapter 252 of the Local Government Code or other applicable laws. The city manager shall notify the city council of any and all expenditures made under this subsection within three business days of initiating the purchase.

The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

MAIN MOTION: to approve Ordinance 2020-21, on first and final reading, as amended. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

22. Consider approval of Resolution 2020-83R, filling a vacancy on the Board of Directors of the Alliance Regional Water Authority (ARWA), and declaring an effective date.

A motion was made by Mayor Pro Tem Mihalkanin, seconded by Deputy Mayor Pro Tem Rockeymoore, approving the re-appointment of Mayor Hughson to serve on the Alliance Regional Water Authority (ARWA) for another three year term, ending April 2023. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

23. Receive a presentation and hold discussion regarding a possible budget amendment to provide funding for personal protective equipment and testing for COVID-19, and provide direction to the City Manager.

This item was placed on the agenda by Council Members Mihalkanin and Gonzales. Following Council discussion, Staff was directed to schedule meetings on off weeks to receive COVID-19 updates along with reports from the City Manager on how much money has been spent and what other cost saving measures the City is currently taking. A repealing Ordinance will be brought back regarding the spending authority of the City Manager after the pandemic.

EXECUTIVE SESSION (If Necessary)

24. Executive Session in accordance with the following Government Code Section(s):

A. Section §551.074 - Personnel Matters: to discuss the Appointee Review Process
B. Section §551.071 - Consultation with Attorney: to seek legal advice concerning a request for consideration by council of an anti-discrimination ordinance

A motion was made by Council Member Derrick, seconded by Council Member Gonzales, to postpone #24 (b) to the next City Council Meeting. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

DIRECTION/ACTION FOLLOWING EXECUTIVE SESSION

25. Consider action, by motion, regarding the following Executive Session items held during the Work Session and/or Regular Meeting:
A. Section §551.074 - Personnel Matters: Appointee Review Process
B. Section §551.071 - Consultation with Attorney: to discuss Legal considerations of anti-discrimination ordinance

Mayor Hughson stated for item 25 A that the schedule was set for appointees and (b) is postponed to the next City Council meeting.

VII. Adjournment.

A motion was made by Council Member Derrick, seconded by Council Member Baker, that this be adjourned. The motion carried by the following vote:

For: 7 - Council Member Derrick, Mayor Hughson, Mayor Pro Tem Mihalkanin, Council Member Marquez, Deputy Mayor Pro Tem Rockeymoore, Council Member Baker and Council Member Gonzales

Against: 0

Tammy K. Cook, Interim City Clerk **Jane Hughson, Mayor**

File #: Ord. 2020-18(b), **Version:** 1

AGENDA CAPTION:
Consider approval of Ordinance 2020-18, on the second of two readings, supporting the San Marcos Police Department's increased use of the cite and release process, when appropriate, instead of arresting individuals suspected of having committed certain misdemeanor offenses: requiring recordkeeping and reporting of use of the cite and release process and instances in which individuals have been arrested for cite and release eligible offenses; and providing an effective date.

Meeting date: April 21, 2020

Department: City Manager

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

Fiscal Note:

Prior Council Action: April 7, 2020 - Council approved the ordinance on first reading with three amendments that are highlighted in Sections 2 and 5 of the attached ordinance.

March 3, 2020 - Council held discussion and consensus was to bring this back in the form of an Ordinance.

October 15, 2019 - Council discussed this item during its regular meeting but did not provide direction to staff. Rather, the Council referred the item back to the Criminal Justice Reform Committee for further work.

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

N/A

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☒ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

The San Marcos City Council empaneled a Criminal Justice Reform subcommittee to study local criminal justice reform efforts in parallel with the work being done at the county level. The committee originally consisted of Council Member Mark Rockeymoore (chair), Council Member Lisa Prewitt, and Council Member Dr. Ed Mihalkanin. The committee began meeting monthly in July, 2019. The committee has been working on a draft ordinance that pertains to the use of Cite and Release by sworn law enforcement officers employed by the City. In their regular meeting held on October 3, 2019, the committee developed language for this draft ordinance and presented that language to the Council on October 15, 2019. During that meeting, discussion by the members of Council in conjunction with questions and answers to and from members of staff and the community prompted the Council to send the item back to the committee for further development.

On November 7, 2019, the Criminal Justice Reform (CJR) committee met again and discussed a third version of the ordinance developed by committee members and constituents associated with Mano Amiga. There were substantive changes in this draft that had previously been removed, and there was a lack of consensus on a few of the points. Additionally, a red-lined copy of the ordinance in relation to the prior version was not available. A representative from Mano Amiga volunteered to create the red-lined draft and send that to the committee members and staff representatives. Approximately one week later, staff received a red-lined document for review. That document contained additional wording not previously discussed in any of the meetings, so it became clear that another meeting would need to be held to further discuss what a final draft might look like. The committee did not meet over the Christmas and New Year's holiday time period and reconvened on January 28, 2020. One committee member was new since the November 7, 2019 meeting. Council Member Dr. Marquez replaced outgoing Council Member Lisa Prewitt.

A discussion item about the draft ordinance language was presented to Council during their regular meeting on March 3, 2020. There was consensus among the Council after discussion to bring the item back after Spring Break as an ordinance for consideration. The ordinance language attached to this item is ready for

Council consideration. All of the attachments available during the March 3 discussion remain available for Council's review.

Council Committee, Board/Commission Action:

The Criminal Justice Reform committee met multiple times with staff representatives and prepared the attached ordinance language.

Alternatives:

After consideration, the Council may elect to adopt the ordinance language as-is, amend the ordinance, or reject the ordinance entirely.

Recommendation:

When this item was discussed on March 3, 2020 the staff recommendation was to adopt a resolution in support of many of the tenants found in the ordinance language. Staff still believes this to be the best approach but stands ready to implement Council's direction regardless of whether that be in the form of an ordinance or resolution.

ORDINANCE NO. 2020-_____

AN ORDINANCE SUPPORTING THE SAN MARCOS POLICE DEPARTMENT'S INCREASED USE OF THE CITE AND RELEASE PROCESS, WHEN APPROPRIATE, INSTEAD OF ARRESTING INDIVIDUALS SUSPECTED OF HAVING COMMITTED CERTAIN MISDEMEANOR OFFENSES; REQUIRING RECORD KEEPING AND REPORTING OF USE OF THE CITE AND RELEASE PROCESS AND INSTANCES IN WHICH INDIVIDUALS HAVE BEEN ARRESTED FOR CITE AND RELEASE ELIGIBLE OFFENSES; AND PROVIDING AN EFFECTIVE DATE

RECITALS:

1. State law allows use of citation in lieu of arrest for certain misdemeanor offenses.

2. In 2018, the San Marcos Police Department (SMPD) made arrests for citation-eligible offenses, which translates to lost hours of officer time.

3. Data provided by SMPD shows that in 2018, misdemeanor possession of marijuana under 2 oz and driving while license invalid accounted for more than half of arrests for citation-eligible offenses.

4. The City Council acknowledges that our Peace Officers are allowed to exercise their discretion to issue a citation in lieu of arresting individuals for certain offenses when authorized by State law under article 14.08 of the Texas Code of Criminal Procedure.

5. The City Council supports SMPD's commitment to increase the use of the cite and release process as part of a combined strategy, in cooperation with the Hays County Criminal District Attorney's Office, to divert eligible individuals from being incarcerated, prosecuted, and convicted in the criminal justice system.

6. The City Council deems it necessary to have SMPD gather, report, and publish statistical information to demonstrate trends in the department's use of the cite and release process, including the frequency of use, offense type, justification for arrest (when an arrest is made), and the age, race, and ethnicity of individuals who were arrested and jailed instead of receiving citations and being released for the same offense.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN

MARCOS:

SECTION 1. The City Council supports the SMPD's increased use of the cite and release process, rather than arrest, in appropriate circumstances, for individuals suspected of committing the following offenses, in accordance with article 14.06 of the Texas Code of Criminal Procedure:

1. Class C misdemeanors other than public intoxication, assault, or family violence.
2. Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor
3. Driving while License Invalid, Class B misdemeanor
4. Criminal Mischief, Class B misdemeanor
5. Graffiti, Class A or Class B misdemeanor
6. Theft of Property, Class B misdemeanor
7. Theft of Services, Class B misdemeanor

SECTION 2. The City Council recognizes that use of the cite and release process may not be appropriate in all circumstances and that SMPD officers may exercise their discretion to issue a written or verbal warning in lieu of issuing a citation or making an arrest for a person suspected of committing any offense listed in Section 1.

The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses ~~only~~ if any of the following circumstances are present:

1. The subject does not provide satisfactory evidence of personal identification to allow for citation.
2. The subject is not a resident of the county in which the offense was allegedly committed. For the purposes of this Section, an individual who lives, works, or goes to school in the county where the offense was allegedly committed will be deemed to be a resident of Hays County . In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government-issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, utility or rent bill, student ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification.
3. ~~There is reason to believe~~ The arresting officer believes that the safety of persons (including the subject) would be imminently endangered by

the release of the subject. In making this assessment, ~~it shall be considered~~ the arresting officer shall consider whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy.

4. The subject demands to be taken before a magistrate.
5. The subject has an outstanding arrest warrant from a criminal law enforcement agency.
6. The subject is also suspected of having committed an offense for which the cite and release process is not allowed by state law.

SECTION 3. In any case where an arrest is made for the above-listed offenses, the specific reasons for making the arrest instead of issuing a citation shall be included in the incident report. No arresting officer described in this section shall be charged with any criminal offense for non-compliance with this ordinance.

SECTION 4. The City Manager shall provide and make available to the public a quarterly report or memorandum concerning the use of the cite and release process in lieu of arrest in instances when a ticket or citation is allowed by state law. This report or memorandum shall be provided to the City Council and made public on a quarterly basis and should document anonymized records of every instance that a resident was issued a citation in lieu of arrest and every instance that a resident was arrested for a nonviolent misdemeanor charge when the suspect had no outstanding warrants, was not intoxicated and legally could have been given a citation, but an arrest was made anyway, and shall include the justifications for the arrests. The memorandum shall also include the following data for each instance:

1. The reason for the stop;
2. The particular offense alleged;
3. The age, race, and ethnicity of the person arrested;
4. The location where the incident occurred.
5. The reason for the arrest.

Information regarding specific arrests shall be organized according to race and ethnicity in order to allow racial disparities to be easily analyzed. This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such discretionary arrests.

SECTION 5. The City Council directs the City Manager to work with the San Marcos Police Chief and other relevant stakeholders mentioned below to update all relevant City policies and internal operating procedures in accordance with this Ordinance. Actions that may be necessary include, but are not limited to: updating the San Marcos Police Department General Manual, updating the training bulletin and training officers on the new guidelines for citation versus arrest, and updating the internal databases and systems to remove any guidelines under the manual that are no longer in effect due to this Ordinance.

The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation by including a citizen comment agenda item.

SECTION 6. A progress update shall be provided to City Council within three months after adoption of this ordinance. A written update shall be provided to the City Council within six months after the adoption of this ordinance which includes information regarding all updates to policies, procedures, and practices identified and implemented, as a result of this ordinance.

SECTION 7. This ordinance shall become effective upon approval on second reading.

PASSED AND APPROVED ON FIRST READING on April 7, 2020.

PASSED, APPROVED AND ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael J. Cosentino
City Attorney

ORDINANCE NO. 2020-_____

AN ORDINANCE SUPPORTING THE SAN MARCOS POLICE DEPARTMENT'S INCREASED USE OF THE CITE AND RELEASE PROCESS, WHEN APPROPRIATE, INSTEAD OF ARRESTING INDIVIDUALS SUSPECTED OF HAVING COMMITTED CERTAIN MISDEMEANOR OFFENSES; REQUIRING RECORD KEEPING AND REPORTING OF USE OF THE CITE AND RELEASE PROCESS AND INSTANCES IN WHICH INDIVIDUALS HAVE BEEN ARRESTED FOR CITE AND RELEASE ELIGIBLE OFFENSES; AND PROVIDING AN EFFECTIVE DATE

RECITALS:

1. State law allows use of citation in lieu of arrest for certain misdemeanor offenses.

2. In 2018, the San Marcos Police Department (SMPD) made arrests for citation-eligible offenses, which translates to lost hours of officer time.

3. Data provided by SMPD shows that in 2018, misdemeanor possession of marijuana under 2 oz and driving while license invalid accounted for more than half of arrests for citation-eligible offenses.

4. The City Council acknowledges that our Peace Officers are allowed to exercise their discretion to issue a citation in lieu of arresting individuals for certain offenses when authorized by State law under article 14.08 of the Texas Code of Criminal Procedure.

5. The City Council supports SMPD's commitment to increase the use of the cite and release process as part of a combined strategy, in cooperation with the Hays County Criminal District Attorney's Office, to divert eligible individuals from being incarcerated, prosecuted, and convicted in the criminal justice system.

6. The City Council deems it necessary to have SMPD gather, report, and publish statistical information to demonstrate trends in the department's use of the cite and release process, including the frequency of use, offense type, justification for arrest (when an arrest is made), and the age, race, and ethnicity of individuals who were arrested and jailed instead of receiving citations and being released for the same offense.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN

MARCOS:

SECTION 1. The City Council supports the SMPD's increased use of the cite and release process, rather than arrest, in appropriate circumstances, for individuals suspected of committing the following offenses, in accordance with article 14.06 of the Texas Code of Criminal Procedure:

1. Class C misdemeanors other than public intoxication, assault, or family violence.
2. Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor
3. Driving while License Invalid, Class B misdemeanor
4. Criminal Mischief, Class B misdemeanor
5. Graffiti, Class A or Class B misdemeanor
6. Theft of Property, Class B misdemeanor
7. Theft of Services, Class B misdemeanor

SECTION 2. The City Council recognizes that use of the cite and release process may not be appropriate in all circumstances and that SMPD officers may exercise their discretion to issue a written or verbal warning in lieu of issuing a citation or making an arrest for a person suspected of committing any offense listed in Section 1.

The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses only if any of the following circumstances are present:

1. The subject does not provide satisfactory evidence of personal identification to allow for citation.
2. The subject is not a resident of the county in which the offense was allegedly committed. For the purposes of this Section, an individual who lives, works, or goes to school in the county where the offense was allegedly committed will be deemed to be a resident of Hays County . In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government-issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, utility or rent bill, student ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification.
3. ~~There is reason to believe~~ The arresting officer believes that the safety of persons (including the subject) would be imminently endangered by

the release of the subject. In making this assessment, ~~it shall be considered~~ the arresting officer shall consider whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy.

4. The subject demands to be taken before a magistrate.
5. The subject has an outstanding arrest warrant from a criminal law enforcement agency.
6. The subject is also suspected of having committed an offense for which the cite and release process is not allowed by state law.

SECTION 3. In any case where an arrest is made for the above-listed offenses, the specific reasons for making the arrest instead of issuing a citation shall be included in the incident report. No arresting officer described in this section shall be charged with any criminal offense for non-compliance with this ordinance.

SECTION 4. The City Manager shall provide and make available to the public a quarterly report or memorandum concerning the use of the cite and release process in lieu of arrest in instances when a ticket or citation is allowed by state law. This report or memorandum shall be provided to the City Council and made public on a quarterly basis and should document anonymized records of every instance that a resident was issued a citation in lieu of arrest and every instance that a resident was arrested for a nonviolent misdemeanor charge when the suspect had no outstanding warrants, was not intoxicated and legally could have been given a citation, but an arrest was made anyway, and shall include the justifications for the arrests. The memorandum shall also include the following data for each instance:

1. The reason for the stop;
2. The particular offense alleged;
3. The age, race, and ethnicity of the person arrested;
4. The location where the incident occurred.
5. The reason for the arrest.

Information regarding specific arrests shall be organized according to race and ethnicity in order to allow racial disparities to be easily analyzed. This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such discretionary arrests.

SECTION 5. The City Council directs the City Manager to work with the San Marcos Police Chief and other relevant stakeholders mentioned below to update all relevant City policies and internal operating procedures in accordance with this Ordinance. Actions that may be necessary include, but are not limited to: updating the San Marcos Police Department General Manual, updating the training bulletin and training officers on the new guidelines for citation versus arrest, and updating the internal databases and systems to remove any guidelines under the manual that are no longer in effect due to this Ordinance.

The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation.

SECTION 6. A progress update shall be provided to City Council within three months after adoption of this ordinance. A written update shall be provided to the City Council within six months after the adoption of this ordinance which includes information regarding all updates to policies, procedures, and practices identified and implemented, as a result of this ordinance.

SECTION 7. This ordinance shall become effective upon approval on second reading.

PASSED AND APPROVED ON FIRST READING on April 7, 2020.

PASSED, APPROVED AND ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael J. Cosentino
City Attorney

CITY MANAGER'S OFFICE

MEMO

TO: Mayor Hughson and Council
FROM: Chase Stapp, Director of Public Safety
DATE: February 20, 2020
RE: Article 14.06 – Texas Code of Criminal Procedure (Cite and Release)

At the core of the discussion about local criminal justice reform is the topic of the use of cite and release in lieu of custody arrest for certain Class A, Class B, and Class C misdemeanor offenses. For reference, copied below is the section of the Texas Code of Criminal Procedure that allows for the use of citation in lieu of custody arrest in certain instances.

Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE. (a) Except as otherwise provided by this article, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.

(b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains:

(1) written notice of the time and place the person must appear before a magistrate;

(2) the name and address of the person charged;

(3) the offense charged;

(4) information regarding the alternatives to the full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount; and

(5) the following admonishment, in boldfaced or underlined type or in capital letters:

"If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

(c) If the person resides in the county where the offense occurred, a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate of this state as described by Subsection (a), the name and address of the person charged, and the offense charged.

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5) Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6) Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7) Section 521.457, Transportation Code.

CITY MANAGER'S OFFICE

MEMO

TO: Mayor Hughson and Council
FROM: Chase Stapp, Director of Public Safety
DATE: February 10, 2020
RE: Draft Cite and Release Agenda Item for March 3

The Criminal Justice Reform (CJR) Council Committee met on January 28, 2020 to revisit draft legislation language surrounding the use of Cite and Release processes by members of the San Marcos Police Department. Previously on October 15, 2019, Council discussed a prior draft version of ordinance language but directed that it be discussed and developed further by CJR committee. After discussion by the committee on January 28, the members of the committee provided direction that a discussion item be brought before Council on March 3, 2020. The purpose of this memo is to summarize three main decision points that the CJR committee respectfully requests Council direction on.

Resolution or Ordinance?

The first of these decision points is whether Council as a whole intends to move this legislation forward as a resolution or as an ordinance. Staff believes that there are certain advantages to advancing this item forward as a resolution. Members of Mano Amiga, a local civil rights advocacy group that has been active in these discussions, feel strongly that an ordinance is the most appropriate method for Council to act on this topic. The members of the CJR committee were not in complete agreement in their thinking about this decision point. The optics of the message sent by Council to the members of the Police Department and the community is the key difference between the two options. A resolution is generally viewed as a message sent by Council in support of a particular program or process. A resolution in this instance could serve to communicate to staff the Council's support of an expanded Cite and Release program to include increased data analysis and community involvement. On the other hand, an ordinance will be interpreted by staff, as it should be, as a Council mandate directing staff to take certain action relative to Cite and Release. One risk associated with this approach is that the crafting of an ordinance could unintentionally send the message that Council does not acknowledge or appreciate the extensive work already done by leadership and line level staff at the Police Department to improve the department's use of Cite and Release and the level of data transparency related to the program. The draft language being reviewed and discussed by Council at this meeting could ultimately be written in the form of either a resolution or an ordinance.

Violations to Include in Statement of Support:

The second decision point that the CJR committee asks for direction on relates to the wording contained within Section 1 of the draft legislation. The purpose of this section is for Council to make a statement in support of the use of Cite and Release for certain types of offenses. State law limits the use of Cite and Release to eight enumerated class A and B misdemeanors in addition to almost all Class C misdemeanors. The CJR committee agreed that two of those offenses should not be listed in Section 1 as offenses about which Council expressed support for the use of Cite and Release. Those

two offenses are Possession of a Controlled Substance in Penalty Group 2A (commonly referred to as synthetic marihuana compounds) and Possession of Contraband in a Correctional Facility. The remaining list of offenses that appear in Section 1 were not unanimously supported by members of the CJR committee, but the members were unanimous in that this area should be discussed by the full Council. These offense types are highlighted in yellow in section 1 of the attached draft language. The question at hand involves whether or not Council desires to express support for the use of Cite and Release for the crimes that involve the deprivation of a victim's personal property by either theft or destruction. It was discussed that victims of property crime often have a guttural reaction to being victimized in this way, and Council may or may not want to include these offenses in the list of offenses for which they support the use of Cite and Release. The other point of view is that all of these offenses should be listed so that the wording in the legislation most closely mirrors what is allowed by state law. Regardless of the direction the Council chooses to take, members of the Police Department will be allowed by policy and state law to exercise their discretion and consider using Cite and Release for all of the eligible offenses.

Wording to Limit Discretion:

The third and final decision point is found in Section 2 of the draft language and surrounds whether or not to include the word "only" in a sentence that introduces a list of possible exceptions to the use of Cite and Release. The CJR committee again were not unanimously in agreement about the inclusion of this word. Staff believes that the wording severely restricts an officer's use of discretion about when it is or is not appropriate to use Cite and Release. Specifically, staff feels that the list of possible exceptions, though fairly exhaustive, should not be viewed as the only things that may preclude the use of Cite and Release. Our police officers deal with an extremely wide array of circumstances in their daily work, and staff believes that limiting their discretion with this wording does not allow for the flexibility needed to make sound arrest decision that best serve our goal of enhancing public safety in San Marcos. On the other hand, proponents of the language highlighted in yellow argue that it serves to provide needed direction on the limited use of discretion by officers. As with the other two decision points, the members of the CJR committee respectfully request that Council discuss and provide direction.

After Council discussion and direction, staff is prepared to bring back an action item in line with Council recommendations at the next meeting.

CITY MANAGER'S OFFICE

MEMO

TO: Mayor Hughson and Council
FROM: Chase Stapp, Director of Public Safety
DATE: February 10, 2020
RE: 2018 and 2019 SMPD Cite and Release Data - Summary

Attached to the agenda item for the March 3 regular Council meeting pertaining to Cite and Release are four spreadsheets that provided detailed information about the use of Cite and Release by sworn members of the San Marcos Police Department in 2018 and 2019. This data was compiled and prepared by Assistant Chief Brandon Winkenwerder for your information and involved an exhaustive and labor-intensive process. The purpose of this memo is to provide some explanation of the data to make it easier to process.

You will see two spreadsheets related to the 2018 data and two related to the 2019 data. The first spreadsheet for each year is the breakdown of data by offense type, race, gender, and citation eligibility. The second spreadsheet for each year is a summary breakdown of the most common reasons a person was deemed to be ineligible for Cite and Release in accordance with state law. In this memo I will provide background explanation about these documents in that respective order.

Cite and Release Data Spreadsheets:

When reviewing the first spreadsheet for each year, please first take your attention to column O (Total) and then to columns B (Not Eligible), F (Eligible) and J (Cite.) Also of note is Column A which lists the various types of offenses eligible for the use of Cite and Release according to state law. Aggregate data with all offense types is found near the top of the spreadsheet. Column O shows the total number of instances whether that be aggregate or by offense type. Column B shows the number of people by various categories who were deemed ineligible for the use of Cite and Release for various reasons. Column F reflects the number of people who were found to be eligible but were arrested rather than being release with a citation. Column J reflects the number of people who were released using a field release citation. Near the top right corner of the spreadsheet you will see summary data of the number of people who were released using a field citation sorted by race/ethnicity and gender. The total number of eligible individuals and circumstances is reached by adding the number of people who were eligible but did not receive a citation (column F) and the number of people who were released with the use of a citation (column J.)

Cite and Release Ineligibility Summary Spreadsheets:

In his analysis of the reasons why people were not eligible for Cite and Release, Chief Winkenwerder noted five primary reasons that contributed to a person being ineligible. Those were residency (not a resident of Hays County), additional charges (the arrested person faced additional charges not eligible for cite and release), a combination of residency and additional charges, the existence of an arrest warrant for the offender, and the offender was referred to mental health services. This spreadsheet provides aggregate data near the top and below that details each of these criteria for the various cite

and release eligible offenses. The data can be found in columns C (residency), E (charges), G (combination of residence and charges), I (outstanding arrest warrant), and K (mental health referral.)

The following abbreviations are used in both spreadsheets:

POM = Possession of Marihuana
MA/MB = Misdemeanors of either class A or B
POCS = Possession of controlled substance
2A = Penalty group 2A
CM = Criminal Mischief
DWLI = Driving while license invalid

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
1	**2018 Cite Arrest Offenses**																								
2	**2018 Total All**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**	**Sex**	**Race**		**Cite-Eligible**	**Total**	**Cite**	**%Total Eligible**	**Sex**	**Race**
3		78	14.3	Male	Black	25	4.6	Male	Black	1	0.2	Male	Black		104	19.2	Male	Black			26	1	0.6	Male	Black
4		126	23.2	Male	Hispanic	50	9.2	Male	Hispanic	10	2	Male	Hispanic		186	34.2	Male	Hispanic			60	10	5.9	Male	Hispanic
5		89	16.4	Male	White	24	4.4	Male	White	6	1.1	Male	White		119	21.9	Male	White			30	6	3.6	Male	White
6		2	0.4	Male	Asian	0	0	Male	Asian	0	0	Male	Asian		2	0.4	Male	Asian			0	0	0	Male	Asian
7																									
8		11	2	Female	Black	8	1.5	Female	Black	0	0	Female	Black		19	3.5	Female	Black			8	0	0	Female	Black
9		44	8.1	Female	Hispanic	17	3.1	Female	Hispanic	3	0.5	Female	Hispanic		64	11.8	Female	Hispanic			20	3	1.8	Female	Hispanic
10		24	4.4	Female	White	21	3.8	Female	White	2	0.4	Female	White		47	8.6	Female	White			23	2	1.2	Female	White
11		1	0.2	Female	Asian	1	0.2	Female	Asian	0	0	Female	Asian		2	0.4	Female	Asian			1	0	0	Female	Asian
12																									
13	Total	375	69			146	26.8			22	4.2				543	100					168	22	13.1		
14																									
15																									
16	**POM 2 -4 oz MA**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
17		7	54	Male	Black	0	0	Male	Black	0	0	Male	Black		7	54	Male	Black							
18		2	15	Male	Hispanic	2	15	Male	Hispanic	0	0	Male	Hispanic		4	31	Male	Hispanic							
19		2	15	Male	White	0	0	Male	White	0	0	Male	White		2	15	Male	White							
20																									
21		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
22		0	0	Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
23		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
24																									
25	Total	11	85			2	15			0	0				13	100									
26																									
27																									
28	**POCS 2A MB**																								
29		**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
30		0	0	Male	Black	0	0	Male	Black	0	0	Male	Black		0	0	Male	Black							
31		1	100	Male	Hispanic	0	0	Male	Hispanic	0	0	Male	Hispanic		1	100	Male	Hispanic							
32		0	0	Male	White	0	0	Male	White	0	0	Male	White		0	0	Male	White							
33																									
34		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
35		0	0	Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
36		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
37																									
38	Total	1	100			0	0			0	0				1	100									
39																									
40	**POCS 2A MA**																								
41	Total	0													0										
42																									
43																									
44																									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
45	**Theft of Service MB 100-750**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
46		1	100	Male	Black	0	0	Male	Black	0	0	Male	Black		1	100	Male	Black							
47		0	0	Male	Hispanic	0	0	Male	Hispanic	0	0	Male	Hispanic		0	0	Male	Hispanic							
48		0	0	Male	White	0	0	Male	White	0	0	Male	White		0	0	Male	White							
49																									
50		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
51		0	0	Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
52		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
53																									
54		1	100			0	0			0	0				1	0									
55																									
56																									
57	**CM MA 750-2500**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
58		2	13	Male	Black	0	0	Male	Black	0	0	Male	Black		2	12.5	Male	Black							
59		5	31	Male	Hispanic	0	0	Male	Hispanic	0	0	Male	Hispanic		5	31.25	Male	Hispanic							
60		7	44	Male	White	0	0	Male	White	0	0	Male	White		7	43.75	Male	White							
61																									
62		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
63		1	6	Female	Hispanic	1	6	Female	Hispanic	0	0	Female	Hispanic		2	12.5	Female	Hispanic							
64		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
65																									
66		15	94			1	6			0	0				16	100									
67																									
68																									
69	**CM MB 100-750**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
70		4	12	Male	Black	2	6	Male	Black	0	0	Male	Black		6	17.6	Male	Black							
71		7	21	Male	Hispanic	3	9	Male	Hispanic	0	0	Male	Hispanic		10	29.4	Male	Hispanic							
72		11	32	Male	White	1	3	Male	White	2	6	Male	White		14	41.1	Male	White							
73																									
74		1	3	Female	Black	0	0	Female	Black	0	0	Female	Black		1	2.9	Female	Black							
75		2	6	Female	Hispanic	1	3	Female	Hispanic	0	0	Female	Hispanic		3	9	Female	Hispanic							
76		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
77																									
78		25	74			7	21			2	6				34	100									
79																									
80																									
81	**Graffiti A**														0										
82	Total	0													0										
83																									
84																									
85	**Graffiti B**														0										
86	Total	0													0										
87																									
88																									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
89	**Theft MB 100-750**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
90		6	6	Male	Black	3	3	Male	Black	0	0	Male	Black		9	9.5	Male	Black							
91		16	17	Male	Hispanic	7	7	Male	Hispanic	0	0	Male	Hispanic		23	24	Male	Hispanic							
92		5	5	Male	White	3	3	Male	White	1	1	Male	White		9	9.5	Male	White							
93																									
94		4	4	Female	Black	6	6	Female	Black	0	0	Female	Black		10	10	Female	Black							
95		15	16	Female	Hispanic	10	11	Female	Hispanic	1	1	Female	Hispanic		26	27.7	Female	Hispanic							
96		4	4	Female	White	10	11	Female	White	2	2	Female	White		16	17	Female	White							
97						1	1	Female	Asian						1	1.1	Female	Asian							
98																									
99		50	53			40	43			4	4				94										
100																									
101	**POM 2OZ MB**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
102		42	18	Male	Black	14	6	Male	Black	0	0	Male	Black		56	24	Male	Black							
103		62	27	Male	Hispanic	16	7	Male	Hispanic	3	1.2	Male	Hispanic		81	35	Male	Hispanic							
104		39	17	Male	White	9	4	Male	White	2	0.8	Male	White		50	22	Male	White							
105		1	0.4	Male	Asian										1	0.4	Male	Asian							
106																									
107		1	0.4	Female	Black	1	0.4	Female	Black	0	0	Female	Black		2	0.8	Female	Black							
108		17	7	Female	Hispanic	1	0.4	Female	Hispanic	2	0.8	Female	Hispanic		20	8.7	Female	Hispanic							
109		14	6	Female	White	6	3	Female	White	0	0	Female	White		20	8.7	Female	White							
110		1	0.4	Female	Asian										1	0.4	Female	Asian							
111																									
112		177	76.2			47	20.8			7	2.8				231	100									
113																									
114	**DWLI**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
115		16	10	Male	Black	6	4	Male	Black	1	0.5	Male	Black		23	15	Male	Black							
116		33	21.5	Male	Hispanic	22	14	Male	Hispanic	7	5	Male	Hispanic		62	40.5	Male	Hispanic							
117		25	16	Male	White	11	7	Male	White	1	0.5	Male	White		37	24.2	Male	White							
118		1	0.5	Male	Asian										1	0.7	Male	Asian							
119																									
120		5	3	Female	Black	1	0.5	Female	Black	0	0	Female	Black		6	3.9	Female	Black							
121		9	6	Female	Hispanic	4	2.5	Female	Hispanic	0	0	Female	Hispanic		13	8.5	Female	Hispanic							
122		6	4	Female	White	5	3	Female	White	0	0	Female	White		11	7.2	Female	White							
123																									
124		95	62			49	32			9	6				153	100									

	A	B	C	D	E	F	G	H	I	J	K	L
1												
2	**2018 Cite Arrest Ineligibility**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
3	Not Eligible	375	107	28.5	150	40	109	29.1	8	2.1	1	0.2
4	Eligible/Cite	168										
5												
6	**POM 2 -4 oz MA**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
7	Not Eligible	11	1	9	6	54	4	36	0	0	0	0
8	Eligible/Cite	2										
9												
10	**POCS 2A MB**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
11	Not Eligible	1	1	100	0	0	0	0	0	0	0	**0**
12	Eligible/Cite	0										
13												
14	**POCS 2A MA**											
15	Total	0										
16												
17	**Theft of Service MB 100-750**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
18	Not Eligible	1	0	0	1	100	0	0	0	0	0	0
19	Eligible/Cite	0										
20												
21	**CM MA 750-2500**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
22	Not Eligible	15	2	13.3	7	46.6	5	33.3	0		1	6.6
23	Eligible/Cite	1										
24												
25	**CM MB 100-750**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**

	A	B	C	D	E	F	G	H	I	J	K	L
26	Not Eligible	25	5	20	15	60	5	20	0	0	0	0
27	Eligible/Cite	9										
28												
29	**Graffiti A**											
30	Total	0										
31												
32	**Graffiti B**											
33	Total	0										
34												
35	**Theft MB 100-750**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
36	Not Eligible	50	21	42	12	24	11	22	6	12	0	0
37	Eligible/Cite	44										
38												
39	**POM 2OZ MB**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
40	Not Eligible	177	37	21	72	41	66	37	2	1	0	0
41	Eligible/Cite	54										
42												
43	**DWLI**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
44	Not Eligible	95	40	42	37	39	18	19	0	0	0	0
45	Eligible/Cite	58										
46												
47	Residence= The offender was not a residenct of Hays County which is required under the current law											

	A	B	C	D	E	F	G	H	I	J	K	L
48	Charge= The offender had an additional charge or arrest warrant that did not allow the person to be cited											
49	RC= Not Eligible due to residence and a non citeable charge											
50	Warrant=arrest was the result of a judge issuing a warrant for the offender for the citeable offense											
51	MH= Mental Health incident where a person was charged and given services at Hays County											

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
1	**2019 Cite Arrest Offenses**																								
2	**2019 Total All**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**	**Sex**	**Race**		**Cite-Eligible**	**Total**	**Cite**	**%Total Eligible**	**Sex**	**Race**
3		41	10.3	Male	Black	12	3	Male	Black	5	1.3	Male	Black		58	14.6	Male	Black			17	5	3.7	Male	Black
4		88	22.1	Male	Hispanic	40	10.1	Male	Hispanic	8	2	Male	Hispanic		136	34.2	Male	Hispanic			48	8	6	Male	Hispanic
5		63	15.8	Male	White	18	4.5	Male	White	7	1.8	Male	White		88	22.1	Male	White			25	7	5.2	Male	White
6		1	0.3	Male	Asian	1	0.3	Male	Asian						2	0.5	Male	Asian			1	0	0	Male	Asian
7		1	0.3	Male	Unknown										1	0.3	Male	Unknown			0	0	0	Male	Unknown
8																									
9		11	2.7	Female	Black	4	1	Female	Black	2	0.5	Female	Black		17	4.3	Female	Black			6	2	1.5	Female	Black
10		35	8.8	Female	Hispanic	17	4.3	Female	Hispanic	4	1	Female	Hispanic		56	14	Female	Hispanic			21	4	3	Female	Hispanic
11		24	6	Female	White	11	2.7	Female	White	5	1.3	Female	White		40	10	Female	White			16	5	3.7	Female	White
12																									
13	Total	264	66.3			103	25.9			31	7.8				398	100					134	31	23.1		
14																									
15																									
16	**POM 2 -4 oz MA**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
17		2	25	Male	Black	0	0	Male	Black	0	0	Male	Black		2	25	Male	Black							
18		2	25	Male	Hispanic	1	12.5	Male	Hispanic	0	0	Male	Hispanic		3	37.5	Male	Hispanic							
19		1	12.5	Male	White	0	0	Male	White	0	0	Male	White		1	12.5	Male	White							
20																									
21		1	12.5	Female	Black	0	0	Female	Black	0	0	Female	Black		1	12.5	Female	Black							
22		0	0	Female	Hispanic	1	12.5	Female	Hispanic	0	0	Female	Hispanic		1	12.5	Female	Hispanic							
23		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
24																									
25	Total	6	75			2	25			0	0				8	100									
26																									
27																									
28	**POCS 2A MB**																								
29		**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
30		1	50	Male	Black	0	0	Male	Black	0	0	Male	Black		1	50	Male	Black							
31		1	50	Male	Hispanic	0	0	Male	Hispanic	0	0	Male	Hispanic		1	50	Male	Hispanic							
32		0	0	Male	White	0	0	Male	White	0	0	Male	White		0	0	Male	White							
33																									
34		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
35		0	0	Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
36		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
37			0																						
38	Total	2	100			0	0			0	0				2	100									
39																									
40																									
41	**POCS 2A MA**																								
42	Total																								
43																									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
44	**Theft of Service MB 100-750**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
45		0	0	Male	Black	0	0	Male	Black	0	0	Male	Black		0	0	Male	Black							
46		1	100	Male	Hispanic	0	0	Male	Hispanic	0	0	Male	Hispanic		1	100	Male	Hispanic							
47		0	0	Male	White	0	0	Male	White	0	0	Male	White		0	0	Male	White							
48																									
49		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
50		0	0	Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
51		0	0	Female	White	0	0	Female	White	0	0	Female	White		0	0	Female	White							
52																									
53	Total	1	100			0	0			0	0				1	100									
54																									
55																									
56	**CM MA 750-2500**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
57		0	0	Male	Black	0	0	Male	Black	0	0	Male	Black		0	0	Male	Black							
58		2	40	Male	Hispanic	0	0	Male	Hispanic	0	0	Male	Hispanic		2	40	Male	Hispanic							
59		1	20	Male	White	0	0	Male	White	0	0	Male	White		1	20	Male	White							
60																									
61		1	20	Female	Black	0	0	Female	Black	0	0	Female	Black		1	20	Female	Black							
62		0	0	Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
63		1	20	Female	White	0	0	Female	White	0	0	Female	White		1	20	Female	White							
64																									
65	Total	5	100			0	0			0	0				5	100									
66																									
67																									
68	**CM MB 100-750**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
69		8	22	Male	Black	1	3	Male	Black	0	0	Male	Black		9	25	Male	Black							
70		9	25	Male	Hispanic	5	14	Male	Hispanic	0	0	Male	Hispanic		14	38.5	Male	Hispanic							
71		8	22	Male	White	3	8	Male	White	0	0	Male	White		11	30.5	Male	White							
72		1	3	Male	Unknown										1	3	Male	Unknown							
73																									
74		0		Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
75		0		Female	Hispanic	0	0	Female	Hispanic	0	0	Female	Hispanic		0	0	Female	Hispanic							
76		0		Female	White	1	3	Female	White	0	0	Female	White		1	3	Female	White							
77																									
78	Total	26	72			10	28			0	0				36	100									
79																									
80																									
81	**Graffiti A**																								
82	Total	0													0										
83																									
84																									
85	**Graffiti B**																								
86	Total	0													0										
87																									

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y
88																									
89	**Theft MB 100-750**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
90		7	7	Male	Black	1	1	Male	Black	1	1	Male	Black		9	9.25	Male	Black							
91		12	12.5	Male	Hispanic	5	5	Male	Hispanic	2	2	Male	Hispanic		19	19.5	Male	Hispanic							
92		8	8.25	Male	White	4	4	Male	White	0	0	Male	White		12	12.5	Male	White							
93																									
94		8	8.25	Female	Black	3	3	Female	Black	0	0	Female	Black		11	11.25	Female	Black							
95		18	18.5	Female	Hispanic	4	4	Female	Hispanic	1	1	Female	Hispanic		23	23.75	Female	Hispanic							
96		15	15.5	Female	White	7	7	Female	White	1	1	Female	White		23	23.75	Female	White							
97																									
98		68	70			24	24.75			5	5.25				97	100									
99																									
100																									
101	**POM 2OZ MB**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
102		17	12.5	Male	Black	3	2.25	Male	Black	3	2.25	Male	Black		23	16.9	Male	Black							
103		40	29.5	Male	Hispanic	9	6.5	Male	Hispanic	2	1.5	Male	Hispanic		51	37.5	Male	Hispanic							
104		26	19.25	Male	White	3	2.25	Male	White	3	2.25	Male	White		32	23.5	Male	White							
105		1	0.5	Male	Asian										1	0.5	Male	Asian							
106																									
107		1	0.5	Female	Black	1	0.5	Female	Black	2	1.5	Female	Black		4	2.9	Female	Black							
108		9	6.75	Female	Hispanic	6	4.5	Female	Hispanic	1	0.5	Female	Hispanic		16	11.75	Female	Hispanic							
109		5	3.75	Female	White	2	1.5	Female	White	2	1.5	Female	White		9	6.75	Female	White							
110																									
111																									
112		99	72.75			24	17.5			13	9.5				136	99.8									
113																									
114																									
115	**DWLI**	**Not Eligible**	**%**	**Sex**	**Race**	**Eligible**	**%**	**Sex**	**Race**	**Cite**	**%**	**Sex**	**Race**		**Total**	**%**									
116		6	5.3	Male	Black	7	6.25	Male	Black	1	0.9	Male	Black		14	12.3	Male	Black							
117		21	18.5	Male	Hispanic	20	17.75	Male	Hispanic	4	3.6	Male	Hispanic		45	39.8	Male	Hispanic							
118		19	16.8	Male	White	8	7	Male	White	4	3.6	Male	White		31	27.4	Male	White							
119						1	0.9	Male	Asian						1	0.9	Male	Asian							
120																									
121		0	0	Female	Black	0	0	Female	Black	0	0	Female	Black		0	0	Female	Black							
122		8	7.1	Female	Hispanic	6	5.3	Female	Hispanic	2	1.7	Female	Hispanic		16	14.2	Female	Hispanic							
123		3	2.6	Female	White	1	0.9	Female	White	2	1.7	Female	White		6	5.3	Female	White							
124																									
125		57	50.3			43	38.1			13	11.5				113	99.9									

	A	B	C	D	E	F	G	H	I	J	K	L
1	**2019 Cite Arrest Ineligibility**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
2	Not Eligible	264	73	27.6	77	29.2	104	39.3	10	3.8	0	0
3	Eligible/Cite	134										
4												
5	**POM 2 -4 oz MA**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
6	Not Eligible	6	2	33.3	1	16.6	3	50	0	0	0	0
7	Eligible/Cite	2										
8												
9	**POCS 2A MB**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
10	Not Eligible	2	0	0	0	0	1	50	1	50	0	0
11	Eligible/Cite	0										
12												
13	**POCS 2A MA**											
14	Total	0										
15												
16	**Theft of Service MB 100-750**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
17	Not Eligible	1	0	0	0	0	0	0	1	100	0	0
18	Eligible/Cite	0										
19												
20	**CM MA 750-2500**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
21	Not Eligible	5	1	20	1	20	2	40	1	20	0	0
22	Eligible/Cite	0										
23												
24	**CM MB 100-750**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
25	Not Eligible	26	4	15	8	31	9	35	5	19	0	0
26	Eligible/Cite	10										
27												
28	**Graffiti A**											
29	Total	0										
30												
31	**Graffiti B**											

	A	B	C	D	E	F	G	H	I	J	K	L
32	Total	0										
33												
34	**Theft MB 100-750**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
35	Not Eligible	68	33	48.5	10	15	23	33.5	2	3	0	
36	Eligible/Cite	29										
37												
38	**POM 2OZ MB**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
39	Not Eligible	99	15	15.3	37	37.3	47	47.3	0	0	0	0
40	Eligible/Cite	37										
41												
42	**DWLI**		**Residence**	**%**	**Charge**	**%**	**RC**	**%**	**Warrant**	**%**	**MH**	**%**
43	Not Eligible	57	18	31.5	20	35.1	19	33.3	0	0	0	0
44	Eligible/Cite	56										
45												
46	Residence= The offender was not a residenct of Hays County which is required under the current law											
47	Charge= The offender had an additional charge or arrest warrant that did not allow the person to be cited											
48	RC= Not Eligible due to residence and a non citeable charge											
49	Warrant=arrest was the result of a judge issuing a warrant for the offender for the citeable offense											

	A	B	C	D	E	F	G	H	I	J	K	L
50	MH= Mental Health incident where a person was charged and given services at Hays County											

An Ordinance Regarding Arrests and Citations

RECITALS:

1. State law allows use of citation in lieu of arrest for certain misdemeanor offenses.

2. In 2018, the San Marcos Police Department (SMPD) made arrests for citation-eligible offenses, which translates to lost hours of officer time.

3. Data provided by SMPD shows that in 2018, misdemeanor possession of marijuana under 2 oz and driving while license invalid accounted for more than half of arrests for citation-eligible offenses.

4. The City Council acknowledges that our Peace Officers are allowed to exercise their discretion to issue a citation in lieu of arresting individuals for certain offenses when authorized by State law under article 14.08 of the Texas Code of Criminal Procedure.

5. The City Council supports SMPD's commitment to increase the use of the cite and release process as part of a combined strategy, in cooperation with the Hays County Criminal District Attorney's Office, to divert eligible individuals from being incarcerated, prosecuted, and convicted in the criminal justice system.

6. The City Council deems it necessary to have SMPD gather, report, and publish statistical information to demonstrate trends in the department's use of the cite and release process, including the frequency of use, offense type, justification for arrest (when an arrest is made), and the age, race, and ethnicity of individuals who were arrested and jailed instead of receiving citations and being released for the same offense.

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

Section 1.

The City Council supports the SMPD's increased use of the cite and release process, rather than arrest, in appropriate circumstances, for individuals suspected of committing the following offenses, in accordance with article 14.06 of the Texas Code of Criminal Procedure:

1. Class C misdemeanors other than public intoxication, assault, or family violence.
2. Possession of Marijuana less than 4 oz, Class A or Class B misdemeanor
3. Driving while License Invalid, Class B misdemeanor
4. Criminal Mischief, Class B misdemeanor
5. Graffiti, Class A or Class B misdemeanor
6. Theft of Property, Class B misdemeanor
7. Theft of Services, Class B misdemeanor

Section 2.

The City Council recognizes that use of the cite and release process may not be appropriate in all circumstances and that SMPD officers may exercise their discretion to issue a written or verbal warning in lieu of issuing a citation or making an arrest for a person suspected of committing any offense listed in Section 1.

The City Council further recognizes that the use of the cite and release process may not be appropriate in all instances, and that SMPD officers may find it necessary to arrest a person suspected of having committed any of the above-listed offenses only if any of the following circumstances are present:

1. The subject does not provide satisfactory evidence of personal identification to allow for citation.
2. The subject is not a resident of the county in which the offense was allegedly committed. For the purposes of this Section, an individual who lives, works, or goes to school in the county where the offense was allegedly committed will be deemed to be a resident of Hays County . In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government-issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, utility or rent bill, student ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification.
3. There is reason to believe that the safety of persons (including the subject) would be imminently endangered by the release of the subject. In making this assessment, it shall be considered whether the subject has the physical or mental capacity to endanger the safety of themselves or the public, whether the subject is unlawfully carrying a weapon, and/or if the subject has made immediate threats against other individuals in the area. In cases in which the subject appears to suffer from mental illness and/or addiction, a referral to appropriate medical and/or psychiatric services in lieu of arrest shall be considered in accordance with SMPD policy .
4. The subject demands to be taken before a magistrate.
5. The subject has an outstanding arrest warrant from a criminal law enforcement agency.
6. The subject is also suspected of having committed an offense for which the cite and release process is not allowed by state law.

Section 3.

In any case where an arrest is made for the above-listed offenses, the specific reasons for making the arrest instead of issuing a citation shall be included in the incident report. No arresting officer described in this section shall be charged with any criminal offense for non-compliance with this ordinance.

Section 4.

The City Manager shall provide and make available to the public a quarterly report or memorandum concerning the use of the cite and release process in lieu of arrest in instances when a ticket or citation is allowed by state law. This report or memorandum shall be provided to the City Council and made public on a quarterly basis and should document anonymized records of every instance that a resident was issued a citation in lieu of arrest and every instance that a resident was arrested for a nonviolent misdemeanor charge when the suspect had no outstanding warrants, was not intoxicated and legally could have been given a citation, but an arrest was made anyway, and shall include the justifications for the arrests. The memorandum shall also include the following data for each instance:

1. The reason for the stop;
2. The particular offense alleged;

3. The age, race, and ethnicity of the person arrested;
4. The location where the incident occurred.
5. The reason for the arrest.

Information regarding specific arrests shall be organized according to race and ethnicity in order to allow racial disparities to be easily analyzed. This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such discretionary arrests.

Section 5

The City Council directs the City Manager to work with the San Marcos Police Chief and other relevant stakeholders mentioned below to update all relevant City policies and internal operating procedures in accordance with this Ordinance. Actions that may be necessary include, but are not limited to: updating the San Marcos Police Department General Manual, updating the training bulletin and training officers on the new guidelines for citation versus arrest, and updating the internal databases and systems to remove any guidelines under the manual that are no longer in effect due to this Ordinance.

The City Council directs the City Manager to arrange regular meetings of the Police Chief's Advisory Panel, other interested stakeholders and community organizations, individuals directly impacted by the policing and arrests of immigrant communities and communities of color, and any representatives that may be designated by the Hays County District Attorney's Office in the development of policies, procedures, and practices related to this Ordinance. These meetings shall be open to public participation.

Section 6.

A progress update shall be provided to City Council within three months after adoption of this ordinance. A written update shall be provided to the City Council within six months after the adoption of this ordinance which includes information regarding all updates to policies, procedures, and practices identified and implemented, as a result of this ordinance.

File #: Res. 2020-84R, **Version:** 1

AGENDA CAPTION:

Consider approval of Resolution 2020-84R, approving Amendment No. 4 to the Airport Project Participation Agreement between the City and the Texas Department of Transportation initially approved by Resolution 2015-80R and then amended by Resolution 2016-80R and Resolution 2019-117R which authorized the City's acceptance of a grant from the Texas Department of Transportation for the construction of a box hangar and associated developments at the San Marcos Regional Airport; to increase the estimated project cost from $881,200.00 to $920,447.00; to approve the City's expenditure of local funds in the estimated amount of $253,283.70; authorizing the City Manager or his designee to execute any documents necessary for the implementation of the hangar development project; and declaring an effective date.

Meeting date: April 21, 2020

Department: Engineering and Capital Improvements

Amount & Source of Funding

Funds Required: $39,247
Account Number: C249 and C708
Funds Available: $383,750 and $480,000
Account Name: Water Main Oversizing and Wastewater Oversizing

Fiscal Note:

Prior Council Action: Resolution 2015-80R, Resolution 2016-80R and Resolution 2019-117R

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

N/A

Choose an item.

Choose an item.

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

☒ Economic Development - Promote & Support Potential of San Marcos Regional Airport

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

This resolution is to request an approval to amend the participation agreement between the City and TxDOT Aviation relating to the construction of a box hangar. The city requested the contractor perform additional work to facilitate future hangar construction, specifically relating to utility extensions. This amendment identifies the responsibilities between TxDOT and the City to fund the additional work.

Council Committee, Board/Commission Action:

Alternatives:

Click or tap here to enter text.

Recommendation:

Staff recommends approval.

RESOLUTION NO. 2020-84R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AMENDMENT NO. 4 TO THE AIRPORT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY AND THE TEXAS DEPARTMENT OF TRANSPORTATION INITIALLY APPROVED BY RESOLUTION NO. 2015-80R AND THEN AMENDED BY RESOLUTION NO. 2016-80R AND RESOLUTION 2019-117R WHICH AUTHORIZED THE CITY'S ACCEPTANCE OF A GRANT FROM THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF A BOX HANGAR AND ASSOCIATED DEVELOPMENTS AT THE SAN MARCOS REGIONAL AIRPORT; TO INCREASE THE ESTIMATED PROJECT COST FROM $881,200.00 TO $920,447.00; TO APPROVE THE CITY'S EXPENDITURE OF LOCAL FUNDS IN THE ESTIMATED AMOUNT OF $253,283.70; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY FOR THE IMPLEMENTATION OF THE HANGAR DEVELOPMENT PROJECT; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. On July 21, 2015 (Resolution 2015-80R) the City of San Marcos authorized the acceptance of a grant from the Texas Department of Transportation ("TxDOT") for the construction of Eight Nested T-Hangars with Apron and associated improvements at the San Marcos Regional Airport (the "Project").

2. The City later changed the Project reference from Eight Nested T-Hangars to Hangar Development in the execution of Resolution 2016-80R.

3. The City now wishes to amend Resolution 2015-80R to increase the estimated total Project cost from $881,200.00 to $920,447.00 and to authorize an additional expenditure of $39,247.00 of funding from the City for this Project.

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

PART 1. Resolution 2015-80R is hereby amended to increase the estimated total Project cost from $881,200.00 to $920,447.00.

PART 2. The City's expenditure of local funding for the Project is estimated to be approximately $253,283.70 and is hereby approved.

PART 3. The City's expenditure of funds in the estimated amount of $39,247.00 for 100% payment of additional work outside the original TxDOT scope is approved.

PART 4. The City commits to constructing the Project in a manner consistent with the Airport Layout Plan as approved by the State and to maintaining airport minimum standards, rates and charges that are reasonable and non-discriminatory.

PART 5. The City Council names the Texas Department of Transportation as the City's agent for the purposes of applying for, receiving and disbursing all funds for this Project and for the administration of contracts necessary for the implementation of the Project.

PART 6. The City Manager is authorized and directed to execute, on behalf of the City of San Marcos, at the appropriate time, and with the appropriate authorization of the City Council, all contracts and

agreements with the State of Texas as represented by the Texas Department of Transportation and such other parties as shall be necessary and appropriate for the implementation of the improvements to the San Marcos Municipal Airport.

PART 7. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

File #: Res. 2020-85R, **Version:** 1

AGENDA CAPTION:
Consider approval of Resolution 2020-85R, approving an Advanced Funding Agreement with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-02-149) for the Water and Electric Utility Relocation project from Interstate Highway 35 from North of River Ridge Parkway to Loop 82, with an estimated cost of participation by the City in the amount of $555,400.00; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

Meeting date: April 21, 2020

Department: Engineering & CIP

Amount & Source of Funding
Funds Required: $555,400.00
Account Number: C629
Funds Available: $578,448.00
Account Name: IH-35 Utility Relocations

Fiscal Note:

Prior Council Action: NA

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

Choose an item.

City Facilities

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☒ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Texas Department of Transportation's (TxDOT) I-35 from north of River Ridge Parkway to south of Loop 82 Project consists of new northbound I-35 ramps between River Ridge Parkway and Loop 82 (Aquarena Springs Drive). A northbound exit ramp to River Ridge Parkway will be constructed and an existing northbound entrance ramp south of River Ridge Parkway will be relocated to provide adequate weaving distance. The northbound frontage road between River Ridge Parkway and Loop 82 will also be reconstructed as part of this project.

Project Schedule:

Design Completion: anticipated mid-2020
Construction Letting: mid-2020
Construction Start: Late 2020
Construction Completion: mid-2022

An Advanced Funding Agreement (AFA) is required between the Texas Department of Transportation (TxDOT) and the City of San Marcos (City) to include waterline and electric bore betterments along IH 35 from north of River Ridge Parkway to Loop 82. Water and electric facilities will be owned, operated and maintained by the City from and after completion and final acceptance by TxDOT and the City. The estimated total construction cost for the relocated and adjusted waterline and electric facilities is $555,400.00

Estimated total payment by the City to TxDOT is $555,400.00.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Staff recommends approval of this Resolution

CSJ # 0016-02-149
ROW CSJ #0016-02-159
District # 14 – Austin
U#14931
Code Chart 64 # 37950
Project: IH35 from North of River Ridge Parkway to Loop 82

STATE OF TEXAS §

COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT FOR VOLUNTARY UTILITY RELOCATION CONTRIBUTIONS ON STATE HIGHWAY IMPROVEMENT PROJECTS

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation ("State") and City of San Marcos ("Utility"),

WITNESSETH

WHEREAS, Transportation Code, Chapters 201, 221, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads and highways that comprise the State Highway System; and,

WHEREAS, Transportation Code, Chapter 203, Subchapter E, Transportation Code §203.092 authorizes the State to regulate the placement of public utility facilities along a state highway; and,

WHEREAS, Texas Transportation Commission Minute Order Numbers 115005 and 115291 authorizes the State to undertake and complete a highway improvement generally described as: Relocate northbound entrance ramp from SL 82, add new one lane northbound exit ramp to River Ridge Pkwy and one northbound auxiliary lane at SL 82 and River Ridge Pkwy.

WHEREAS, Utility possesses facilities that are affected by the above mentioned highway improvement and Utility, and the State agrees that it is more economical or efficient for such relocation to be effected by including said contract in the State's highway construction contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them kept and performed as hereafter set forth, the State and Utility do agree as follows:

AGREEMENT

1. **Time Period Covered**
   This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and Utility will consider it to be in full force and effect until the Project described in this agreement has been completed and accepted by all parties or unless terminated, as provided.

2. **Project Funding and Work Responsibilities**
   A. The State will authorize the performance of only those Project items of work which are eligible for relocation reimbursements or for which Utility has requested and has agreed

to pay for as described in Attachment A - Payment Provision and Work Responsibilities, which is attached to and made a part of this contract. In addition to identifying those items of work to be paid for by payments to the State, Attachment A - Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of Utility and will be carried out and completed by Utility, at no cost to the State. The Utility shall be responsible for costs that are shown on Attachment B, Estimated Utility Costs, which is attached to and made a part of this agreement.

B. If the Utility will perform any work under this contract for which reimbursement will be provided by or through the State, the Utility must complete training before a letter of authority is issued. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures and Qualification for the Texas Department of Transportation*. The Utility shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Utility or an employee of a firm that has been contracted by the Utility to perform oversight of the Project. The State in its discretion may deny reimbursement if the Utility has not designated a qualified individual to oversee the Project.

C. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.

3. Termination

A. This agreement may be terminated in the following manner:

1. By mutual written agreement and consent of both parties;
2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
3. By the State if it determines that the performance of the Project or utility work is not in the best interest of the State.

B. If the agreement is terminated in accordance with the above provisions, Utility will be responsible for the payment of Project costs incurred by the State on behalf of Utility up to the time of termination.

4. Right of Access

If Utility is the owner of any part of the Project site, Utility shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

5. Adjustments Outside the Project Site

Utility will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

6. Responsibilities of the Parties and Indemnity

Utility acknowledges that it is not an agent, servant, employee of the State, nor is it engaged in a joint enterprise, and it is responsible for its own acts and deeds and for those of its agents or employees during the performance of the work on the Project. To the extent permitted by law, Utility agrees to indemnify and hold harmless the State, its agents and employees, from all suits, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person or property in consequence with the performance of design, construction, maintenance, or operation of the Utility facility. Such indemnity includes but is not limited to any claims or amounts arising or recovered under the "Worker's Compensation Law", the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as time to time may be amended.

7. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between Utility and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

8. Successors and Assigns

The State and Utility each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

9. Amendments

By mutual written consent of the parties, the scope of work and payment provisions of this agreement may be amended prior to its expiration.

10. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A - Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Utility Accommodation Rules as set forth in 43 Texas Administrative Code §21.31 et. seq. adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

11. Maintenance

Upon completion of the Project, Utility will assume responsibility for the maintenance of the completed Utility facility unless otherwise specified in Attachment A to this agreement.

12. Notices

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

Utility:	**State:**
City of San Marcos Attn: Director of Engineering 630 East Hopkins Street San Marcos, TX 78666	Director of Contract Services Texas Department of Transportation 125 E. 11th Street Austin, Texas 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

13. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

14. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

15. Access to Information

The Utility is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public

Information Act, available in a format that is accessible by the public at no additional charge to the state.

Each party is signing this agreement on the date stated under that party's signature.

THE UTILITY

_____
Signature

_____
Bert Lumbreras

_____
City Manager – City of San Marcos

_____
Date

THE STATE OF TEXAS

_____
Tucker Ferguson, P.E., Austin District Engineer

_____
Date

CSJ # 0016-02-149
ROW CSJ #0016-02-159
District # 14 – Austin
U#14931
Code Chart 64 # 37950
Project: IH35 from North of River Ridge Parkway to Loop 82

ATTACHMENT A
PAYMENT PROVISION AND WORK RESPONSIBILITIES

1. **Description of the Work Items**
   The parties agree that the water and electric facility betterments shall be made along IH35 from North of River Ridge Parkway to Loop 82. The water and electric facilities shall be owned, operated, and maintained by Utility from and after completion and final acceptance by the State and Utility. The estimated total construction cost for the relocated and adjusted facilities is $555,400.00. The parties agree that it is their intent to complete the relocation improvements within this estimate of cost.
2. **Actual Cost Agreement**
   Utility will be responsible for paying all costs associated with the planning, specification, and estimate (PS&E) development, and construction of the proposed utility work to the extent such is not reimbursed pursuant to state law. All the costs associated with construction of the water and electric facilities for the Project shall be provided as defined under the Standard Utility Agreement, Utility Joint Use Agreement, and/or the Agreement to Contribute Funds executed between the State and Utility.
3. **Schedule of Payments**
   A. At least forty-five (45) days prior to the date set for receipt of the construction bids, the Utility shall remit its remaining financial share for the State's estimated construction oversight and construction costs. Utility must advance to the State one hundred percent (100%) of its share of the estimated Project utility construction costs. The amount to be advanced for the utility improvements is estimated to be $555,400.00 (See Attachment B – Estimated Utility Costs)

   B. In the event the State determines that additional funding is required by the Utility at any time during the Project, the State will notify the Utility in writing. The Utility is responsible for one hundred percent (100%) of the authorized project cost and any overruns. The Utility will make payment to the State within thirty (30) days from receipt of the State's written notification.

   C. Whenever funds are paid by the Utility to the State under this agreement, the Utility will remit a warrant made payable to the "Texas Department of Transportation." The warrant will be deposited by the State and managed by the State. Until the final Project accounting, funds may only be applied by the State to the Project.

   D. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Utility, the State, or the Federal Government will be promptly paid by the owing party.

   A. Work Responsibilities The Utility shall provide the following services under this contract:

   i. Responsible for engaging the services of a Texas Registered Professional Engineer to prepare drawings and technical specifications for water and electric facility betterments along IH 35 from North of River Ridge Parkway to Loop 82.

ii. Provide the plans and specifications to the State to include in the current planning specifications and estimate package being prepared by representatives of the Texas Department of Transportation's South Travis Area Office.
iii. Secure all necessary permitting as may be required for the installation of the water and electric facilities.
iv. Arrange and coordinate with the contractor, through the State, materials and equipment testing, rejection of all work not conforming to minimum requirements of the construction contract documents, maintenance of the proposed water and electric facilities during construction, and the relocation of water and electric facilities and connection of services to customers.
v. Advise the State of work that Utility determines should be corrected or rejected.
vi. Arrange, observe, and inspect all acceptance testing and notify the State of the results of these activities.
vii. Provide inspection services for the construction, notify the State of defects and deficiencies in the work, and observe actions of the contractor to correct such defects and deficiencies.
viii. Assume all responsibility for the maintenance of the existing water and electric facilities during and upon completion of the construction contract.
ix. Ensure all Texas Commission on Environmental Quality and all other regulatory rules, regulations and laws are strictly adhered to.
x. Prepare and submit both a certificate of substantial completion and a list of observed items requiring completion or correction for the relocations and adjustments to the Project Engineer for concurrence.
xi. Coordinate all construction activities performed by Utility's staff for the relocations and adjustments through the Project Engineer.

B. The **State** shall provide the following services under this contract:
i. Combine the water and electric facilities adjustment plans with the plans being prepared for the Project.
ii. Review and approve the final construction plans prior to any construction-related activities. In order to ensure federal and/or state funding eligibility, projects must be authorized by the State prior to advertising for construction.
iii. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project.
iv. Negotiate and administer all field changes and change orders required for the Project. All change orders increasing construction costs for Utility's Project shall be submitted to Utility for review and approval together with an evaluation. Utility agrees to review and either approve or disapprove all change orders within five (5) business days after receipt of such order unless Utility Board's approval is necessary in which case Utility shall bring the item to Utility Board as soon as reasonably possible.
v. Provide overall project management to supervise the day-to-day activities of the construction and monitor the activities of the contractor to promote the timely and

efficient completion of the Project in accordance with the approved Plans and Specifications and construction schedule.

vi. Conduct field observations and coordinate with Utility's inspectors and the contractor to cure defects and deficiencies in the construction prior to final acceptance.

vii. Make timely payment to the contractor for work performed in connection with the Project.

viii. Ensure access and permit Utility's inspectors and other authorized representatives to inspect the water and electric facility construction at all times.

ix. Conduct and coordinate final inspection of the Project in the presence of Utility's Engineer and Inspector, transmit final list of items to be completed or repaired and observe contractor correction of same.

x. Maintain job file.

CSJ # 0016-02-149
ROW CSJ #0016-02-159
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Code Chart 64 # 37950
Project: IH35 from North of River Ridge Parkway to Loop 82

ATTACHMENT B
ESTIMATED UTILITY COSTS

Based on various calculations, following are those amounts due and payable for Utility's costs associated with this project.

Total Estimated Costs
$ 555,400.00

Less Betterment Amount Due from Utility
$ 555,400.00

Amount of total utility relocation Costs
$ 555,400.00

Estimated Amount Eligible for Reimbursement
(Calculated eligibility Ratio – 100%)
$ 0.00

Amount of Utility Adjustment Due from Utility
$ 555,400.00

Estimated amount to be included in Construction Agreement

A. Betterment	$ 555,400.00
B. Utility Adjustment	$ 0.00
GRAND TOTAL	**$ 555,400.00**

Betterment Ratio Calculation

Estimated Betterment Costs

1. New Waterline & Electric crossing

Betterment Calculation:

Total Costs of Betterment	**(Estimated)**	**-**	**$ 555,400.00**
Total Costs of Project (Estimated)		**-**	**$ 555,400.00**

Betterment Percentage for final cost determination: 100% of final cost of relocation
Determination of Betterment – Comparison of estimated cost to replace "as is" versus estimated costs associated with the betterment.

CSJ # 0016-02-149
ROW CSJ #0016-02-159
District # 14 – Austin
U#14931
Code Chart 64 # 37950
Project: IH35 from North of River Ridge Parkway to Loop 82

Item A: The betterment is for a brand new waterline and electric crossing. There is not an existing crossing being replaced.

RESOLUTION NO. 2020-85R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN ADVANCE FUNDING AGREEMENT WITH THE STATE OF TEXAS, ACTING THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (CSJ NO. 0016-02-149), FOR THE WATER AND ELECTRIC UTILITY RELOCATION PROJECT FROM INTERSTATE HIGHWAY 35 FROM NORTH OF RIVER RIDGE PARKWAY TO LOOP 82, WITH AN ESTIMATED COST OF PARTICIPATION BY THE CITY IN THE AMOUNT OF $555,400.00; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT 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 attached Advance Funding Agreement with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-02-149) (the "Agreement") is approved.

PART 2. The City Manager is authorized to execute the Agreement on behalf of the City.

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

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

File #: Res. 2020-86R, **Version:** 1

AGENDA CAPTION:
Consider approval of Resolution 2020-86R, approving an Advanced Funding Agreement (AFA) with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-03-114),for drainage and landscaping betterments along IH-35 from south of SH 80 (Hopkins St) to north of RM 12 (Wonder World Dr) with a participation amount by the City of $5,822,990.22, authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; and declaring an effective date.

Meeting date: April 21, 2020

Department: Engineering & CIP

Amount & Source of Funding
Funds Required: $5,822,990.22
Account Number: C629
Funds Available: $6,300,000.00
Account Name: IH-35 Utility Relocations

Fiscal Note:

Prior Council Action: NA

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

N/A

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☒ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Texas Department of Transportation's (TxDOT) I-35 @ SH123 project consists of intersection improvements at I-35 and SH 123 and ramp reversals between SH 80 (Hopkins St) and RM 12 (Wonder World Dr). The purpose of this project is to improve safety and mobility and includes the following:

- Reconstruct and improve the SH 123 intersection
- Reverse two ramps along the northbound frontage road between SH 80 and SH 123
- Reverse one entrance ramp along the southbound frontage road between SH 80 and SH 123
- Realign the existing southbound exit ramp to SH 123 (CM Allen Parkway)
- Relocate the entrance ramp along the southbound frontage road from SH 80
- Reconstruct portions of the northbound and southbound frontage roads, including improving bicycle and pedestrian accommodations
- Reconstruct the frontage road bridges over Willow Springs Creek
- Raise and reconstruct the northbound frontage road bridge over the San Marcos River
- Widen the southbound frontage road bridge over the San Marcos River
- Reconstruct the main lanes and bridge over SH 123
- Add auxiliary lanes, or extended entrance/exit lanes, to the main lanes and frontage roads

An Advanced Funding Agreement (AFA) is required between the Texas Department of Transportation (TxDOT) and the City of San Marcos (City) to include drainage and landscaping betterments along IH 35 from south of SH 80 to north of RM 12. The estimated total construction cost for the drainage and landscaping betterments is $5,822,990.22. The majority of this cost is to increase stormwater capacity in the TxDOT system to address previous flooding issues in Sunset Acres. The breakdown of the total is:

Landscaping	$	285,319.12
Drainage	$	5,000,530.00
Cut and Restore	$	313,179.94
Sub-Total	***$***	***5,599,029.06***
4% Escalation	$	223,961.16
Total	**$**	**5,822,990.22**

This funding is included in the FY21 CIP.

Payment by the City to TxDOT is due at least 60 days prior to the date TxDOT posts the advertisement for bids. The current Project Schedule is:

Design Completion: anticipated mid 2021
Construction Letting: anticipated mid 2021
Construction Start: anticipated late 2021

Construction Completion: anticipated late 2023

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

NA

Recommendation:

Staff recommends approval of this Resolution

CSJ #	0016-03-114
District #	14-AUS
Code Chart 64 #	37950
Project Name	SH 123 Drainage and landscape betterment

STATE OF TEXAS §

COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT FOR VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS TO TRANSPORTATION IMPROVEMENT PROJECTS WITH NO REQUIRED MATCH ON-SYSTEM

THIS AGREEMENT is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the "State", and the **City of San Marcos**, acting by and through its duly authorized officials, called the "Local Government". The State and Local Government shall be collectively referred to as "the parties" hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, Transportation Code, Chapters 201 and 221, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and

WHEREAS, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement generally described as **reconstruction of main lanes, SH 123 and adjacent frontage roads consisting of grading, asphalt pavement, bridge structures, retaining walls, storm sewers, culverts, erosion control, water quality features, high mast illumination, traffic signals, signing, pavement marking, landscaping, and utility adjustments (Project)**; and

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by contributing a fixed amount of funds towards the portion of the improvement described as drainage and landscaping betterment on IH-35 from south of SH 80 to north of RM 12 in San Marcos, Texas; and

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the state;

CSJ #	0016-03-114
District #	14-AUS
Code Chart 64 #	37950
Project Name	SH 123 Drainage and landscape betterment

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in full force and effect until the Project has been completed and accepted by all parties or unless terminated as provided below.

2. Project Funding and Work Responsibilities

A. The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities (Attachment A) which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

B. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its financial share for the State's estimated construction oversight and construction costs.

C. In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.

D. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.

3. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

4. Adjustments Outside the Project Site

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

CSJ #	**0016-03-114**
District #	**14-AUS**
Code Chart 64 #	**37950**
Project Name	**SH 123 Drainage and landscape betterment**

5. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

6. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

7. Interest

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

9. Increased Costs

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased cost to the department for a highway improvement project, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

CSJ #	0016-03-114
District #	14-AUS
Code Chart 64 #	37950
Project Name	SH 123 Drainage and landscape betterment

10. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

11. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in Attachment A or existing maintenance agreements with the Local Government.

12. Termination

A. This agreement may be terminated in the following manner:
   1. By mutual written agreement and consent of both parties;
   2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
   3. By the State if it determines that the performance of the Project is not in the best interest of the State.

B. If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.

C. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

13. Notices

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

Local Government:	**State:**
City of San Marcos Attn: Director of Engineering 630 East Hopkins Street San Marcos, TX 78666	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11th Street Austin, TX 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

14. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

15. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

16. Amendments

By mutual written consent of the parties, this agreement may be amended in writing prior to its expiration.

17. State Auditor

Pursuant to Texas Government Code § 2262.154, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

18. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

CSJ #	**0016-03-114**
District #	**14-AUS**
Code Chart 64 #	**37950**
Project Name	**SH 123 Drainage and landscape betterment**

THIS AGREEMENT IS EXECUTED by the State and the Local Government.

THE STATE OF TEXAS	**THE LOCAL GOVERNMENT**
Signature	Signature
Tucker Ferguson, P.E. Typed or Printed Name	Typed or Printed Name
District Engineer Typed or Printed Title	Typed or Printed Title
Date	Date

CSJ #	**0016-03-114**
District #	**14-AUS**
Code Chart 64 #	**37950**
Project Name	**SH 123 Drainage and landscape betterment**

ATTACHMENT A
PAYMENT PROVISION AND WORK RESPONSIBILITIES

The Local Government shall contribute a fixed amount of $5,822,990.22 for the Local Government's participation in the Project. Notwithstanding Article 2.B., the Local Government shall pay the State the full fixed amount and shall remit the payment to the State at least 60 days prior to the date the State posts the advertisement for bids.

The State will perform the work for the Project. Any changes, additions, or deletions to the Project will be at the State's sole discretion.

The Project may include any combination of Federal and State funds in addition to Local Government funds. After the Local Government funds are expended, Federal and State funds will be used to complete the Project. The total amount of Local Government participation shall not exceed the fixed amount stated above.

RESOLUTION NO. 2020-86R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN ADVANCE FUNDING AGREEMENT WITH THE STATE OF TEXAS, ACTING THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (CSJ NO. 0016-03-114), FOR DRAINAGE AND LANDSCAPING BETTERMENTS ALONG IH-35 FROM SOUTH OF SH-80 (HOPKINS STREET) TO NORTH OF RM-12 (WONDER WORLD DRIVE), WITH A PARTICIPATION AMOUNT BY THE CITY OF $5,822,990.22; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT 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 attached Advance Funding Agreement with the State of Texas, acting through the Texas Department of Transportation (CSJ No. 0016-03-114) (the "Agreement") is approved.

PART 2. The City Manager, or his designee, is authorized to execute the Agreement on behalf of the City.

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

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

File #: Res. 2020-87R, **Version:** 1

AGENDA CAPTION:
Consider approval of Resolution 2020-87R, awarding a contract to Fleet Safety Equipment, Inc. (known as Dana Safety Supply) through the Texas Local Government Purchasing Cooperative BuyBoard (Contract No. 603-20) for the purchase of patrol equipment to outfit the recently purchased vehicles for the Police Department in the amount of $331,724.80; authorizing the City Manager or his designee to execute the appropriate purchase documents on behalf of the City; and declaring an effective date.

Meeting date: April 21, 2020

Department: San Marcos Police Department - Bob Klett, Interim Chief of Police (By Lynda Williams, Purchasing Manager)

Amount & Source of Funding
Funds Required: $331,724.80
Account Number: 50040000-52111
Funds Available: Click or tap here to enter text.
Account Name: CAPF-GENERAL-EQUIP-2020

Fiscal Note:

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

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

N/A

N/A

N/A

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

City staff recommends awarding a contract to Fleet Safety Equipment, Inc. (known as Dana Safety Supply), Greenville, NC, through purchasing cooperative BuyBoard contract #603-20, for providing patrol vehicle equipment and installation in the amount of $331,724.80.

The equipment will outfit the 18 Tahoe's and 2 Silverado's recently purchase by the Police Department.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Recommend award to Fleet Safety Equipment, Inc. (known as Dana Safety Supply) to provide and install patrol vehicle equipment in the amount of $331,724.80

Sales Quote

DANA SAFETY SUPPLY, INC
4809 KOGER BLVD
GREENSBORO, NC 27407

Telephone: 800-845-0405

Sales Quote No.	320803-F
Customer No.	SANMARCOS

Bill To	Ship To
SAN MARCOS POLICE DEPARTMENT 2300 S IH 35 SAN MARCOS, TX 78666	SAN MARCOS POLICE DEPARTMENT 2300 S IH 35 SAN MARCOS, TX 78666
Contact: CARL SPRIEGEL **Telephone:** 512-754-2206 **E-mail:** cosmap@sanmarcostx.gov	**Contact:** CARL SPRIEGEL **Telephone:** 512-754-2206 **E-mail:** cosmap@sanmarcostx.gov

Quote Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
03/23/20	GROUND	PPAY & ADD TO INVOICE		net 30

Entered By	Salesperson	Ordered By	Resale Number
Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
20	20	N	INFO Tahoes Blue Print BUYBOARD 524-17 Warehouse: HOUS Vin #:	0.0000	0.00
92	92	Y	EMPS2STS5RBW SOI MPOWER FASCIA 4"18-LED STUD MNT RED/BLUE/WHITE Warehouse: HOUS Vin #:	108.5000	9,982.00
40	40	Y	EMPS2QMS5RBW SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	4,340.00
40	40	Y	EMPS2QMS5RBW SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	4,340.00
40	40	Y	EMPS2QMS5RBW SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	4,340.00
18	18	Y	MISC SOI ENFWB0053B Front Windhield QE055472 Warehouse: HOUS Vin #:	899.0000	16,182.00
2	2	Y	MISC SOI ENFWB003AP Front Windshield silveradi QE058040 Warehouse: HOUS Vin #:	899.0000	1,798.00

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Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
80	80	Y	EMPS2QMS5RBW SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	8,680.00
80	80	Y	PMP2WDG35B SOI MPOWER 4" 35 DEGREE WEDGE BLACK Warehouse: HOUS Vin #:	5.0000	400.00
32	32	Y	EMPS2QMS5RBW SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	3,472.00
32	32	Y	EMPS2QMS5RBW SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	3,472.00
16	16	Y	EMPS2QMS5RBA SOI MPOWER FASCIA 4"18-LED QUICK MNT Warehouse: HOUS Vin #:	108.5000	1,736.00
20	20	Y	ENGCC01243 SOI BLUEPRINT 3 CENTRAL CONTROLLER Warehouse: HOUS Vin #:	318.5000	6,370.00
20	20	Y	ENGHNK02 SOI BLUEPRINT REMOTE NODE HARNESS KIT Warehouse: HOUS Vin #:	34.0000	680.00

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Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
20	20	Y	ENGND04101 SOI BLUEPRINT REMOTE NODE Warehouse: HOUS Vin #:	179.0000	3,580.00
20	20	Y	ENGHNK03 SOI 10' BLUEPRINT HARNESS KIT Warehouse: HOUS Vin #:	65.0000	1,300.00
20	20	Y	ENGLNK004 SOI BLUEPRINT LINK FOR 2015+ TAHOE Warehouse: HOUS Vin #:	246.0000	4,920.00
20	20	Y	ENGSYMD01 SOI SOUND OFF / BLUEPRINT SYNC MODULE Warehouse: HOUS Vin #:	250.0000	5,000.00
20	20	Y	ENGCP18001 SOI BLUEPRINT CONTROL PANEL W/ BAIL BRACKET Warehouse: HOUS Vin #:	188.0000	3,760.00
20	20	Y	ENGSA07152 SOI BLUEPRINT 200 WATT DUAL TONE SIREN AMP Warehouse: HOUS Vin #:	336.5000	6,730.00
40	40	Y	ETSS100N SOI SERIES 100N SPEAKER INCLUDES BAIL BRKT Warehouse: HOUS Vin #:	173.5000	6,940.00

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03/23/20	GROUND	PPAY & ADD TO INVOICE		net 30

Entered By	Salesperson	Ordered By	Resale Number
Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
20	20	Y	ETSKLF200 SOI LOW FREQUENCY AFTERSHOCK SIREN W/2 SPEAKERS Warehouse: HOUS Vin #:	500.0000	10,000.00
15	15	Y	PVS1826T15AOSB PG PRO CELL VIPER SHIELD TAHOE Warehouse: HOUS Vin #:	4,193.0000	62,895.00
20	20	Y	C-VS-0813-TAH-1 HAVIS 21IN VEHICLE SPECIFIC TAHOE/SUBURBAN CONSOLE Warehouse: HOUS Vin #: 2007+ YEAR MODELS - STATE YEAR --- INCLUDE THE FACEPLATES LISTED BELOW --- 1) 1) 1) 1) AND WHATEVER FILLER PLATES REQUIRED TO COMPLETE THE INSTALLATION. **********	336.2100	6,724.20
40	40	Y	C-ARM-102 HAV ARM REST - MOUNTS TO SIDE OF CONSOLE BOX Warehouse: HOUS Vin #:	46.6000	1,864.00
20	20	Y	C-CUP2-I HAV IN-CONSOLE DUAL CUP HOLDER Warehouse: HOUS Vin #:	31.8000	636.00

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Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
19	19	Y	C-HDM-204 HAV TELESCOPING SIDE MOUNTED POLE ASSY Warehouse: HOUS Vin #: MOUNTS TO SIDE OF CONSOLE BOX **********	120.0000	2,280.00
19	19	Y	C-MD-119 HAV 11" SLIDE-OUT LOCKING SWING ARM - LOW PROFILE Warehouse: HOUS Vin #:	250.0000	4,750.00
19	19	Y	DS-DELL-412 HAV, DOCKING STATION Warehouse: HOUS Vin #:	661.0000	12,559.00
19	19	Y	DS-DA-412 HAV LAPTOP SCREEN SUPPORT Warehouse: HOUS Vin #:	52.7100	1,001.49
18	18	Y	ETHTAH0-07+ SOI CHEV TAHOE 2007+ PLUG & PLAY HEADLIGHT FLASHER Warehouse: HOUS Vin #:	47.7000	858.60

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Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
19	19	Y	TREMCO TREMCO INTEGRATED ANTI-THEFT SYSTEM (SEE BELO Warehouse: HOUS Vin #: PLEASE NOTE THE FOLLOWING VEHICLE INFORMATION: YEAR - MAKE - MODEL - **********	129.9900	2,469.81
20	20	Y	GK0068E SMC SINGLE T-RAIL MT W/ELECTRIC BLAC-RAC LOCKING HEAD Warehouse: HOUS Vin #:	509.0000	10,180.00
10	10	Y	OPC-CTU-20-47-36-DY EZ STAK ALUMINUM CUSTOM CHEVY TAHOE DRAWER UNIT Warehouse: HOUS Vin #:	1,876.0000	18,760.00
10	10	Y	40101010 OPS RUBBER MATTER PER DRAWER Warehouse: HOUS Vin #:	29.9900	299.90
12	12	Y	DUAL SL STALKER DUAL SL (STANDARD) PATROL CAR 2 ANTENNA RADAR Warehouse: HOUS Vin #: 3-YR WARRANTY. TWO ANTENNA PATROL SYSTEM	2,355.0000	28,260.00

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Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
3	3	Y	MISC CTECH C45-401 CTECH VAULT Warehouse: HOUS Vin #:	2,385.0000	7,155.00
1	1	Y	MISC CTECH C47-301 CTECH VAULT Warehouse: HOUS Vin #:	2,055.0000	2,055.00
12	12	Y	ARGES1 WEC ARGES 5 DEG REMOTE SPOTLIGHT Warehouse: HOUS Vin #:	377.4000	4,528.80
11	11	Y	ARG45D WEC ARGES DRIVER SIDE FENDER MOUNT 2019 TAHOE Warehouse: HOUS Vin #:	54.0000	594.00
12	12	Y	ARGCH2 WEC ARGES SWIVEL MT CONTROL HEAD Warehouse: HOUS Vin #:	168.0000	2,016.00
20	20	Y	BI-BR-930-USB Brooking 3 Hole Outlet with USB Warehouse: HOUS Vin #:	25.0000	500.00
10	10	Y	WK0040TAH15 SMC REAR COMP BARRIERS Warehouse: HOUS Vin #:	258.3000	2,583.00

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GREENSBORO, NC 27407

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Quote Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
03/23/20	GROUND	PPAY & ADD TO INVOICE		net 30

Entered By	Salesperson	Ordered By	Resale Number
Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
1	1	Y	K9-A-201 HAV HOT-N-POP K-9 SYSTEM FOR K-9 TRANSPORT INSERT Warehouse: HOUS Vin #: REPLACES PART # KK-K9-HP-5010B K9 transport option Includes heat alarm pro K9-A-203 Includes remote door pop system for sedans, SUV's and trucks Order optional C-EB35-RHP-1P or C-EB35-RHS-1P bracket if mounting control head in console Effective 12/1/10 K9-A-303 K9 remote pager/beeper module is no longer included as a standard feature with this item and must be purchased separately As of 10/1/12 K9-A-306 engine stall sensor is no longer included as a standard feature and must be purchased separately Sept 2011- sept 2012 the no K9 left behind feature was included, and now it is an optional feature. part # K9-A-304 must be purchased separately K9-A-201 includes: Control head Intelabox Protective relay module S.o.s horn honk output Siren activation output Lightbar activation output Dual window drop kit dual temperature sensors Remote with holster for door popper, Heavy-duty solenoid kit , gas spring with Heavy-duty stainless steel mounts, system wiring harnesses, installation instructions, vehicle specific wiring information **********	1,621.0000	1,621.00

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Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
1	1	Y	K9-A-203 K9 Transport Heat Alarm Unit Option Warehouse: HOUS Vin #:	997.0000	997.00
1	1	Y	K9-A-301 HAV 10 INCH, 650 CFM FAN FOR K-9 TRANSPORT INSERT Warehouse: HOUS Vin #:	310.0000	310.00
1	1	Y	MISC AMerican Alum EZPF-CHCCAB-19_AA Platform 2019+ silveo Warehouse: HOUS Vin #:	2,031.0000	2,031.00
20	20	Y	INSTALL KIT MISC INSTALLATION SUPPLIES I.E. Warehouse: HOUS Vin #: LOOM, WIRE, HARDWARE, CONNECTORS, ETC **********	200.0000	4,000.00
19	19	Y	INSTALL DSS INSTALLATION OF EQUIPMENT Warehouse: HOUS Vin #:	1,896.0000	36,024.00
1	1	Y	INSTALL DSS INSTALLATION OF EQUIPMENT K-9 + acc Warehouse: HOUS Vin #:	2,250.0000	2,250.00

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Chuck Geocaris	Chuck Geocaris-Houston	Carl Spriegel	

Order Quantity	Approve Quantity	Tax	Item Number / Description	Unit Price	Extended Price
			Approved By: _____ ☐ **Approve All Items & Quantities** **Quote Good for 45 Days**		

Print Date	03/23/20
Print Time	11:23:32 AM
Page No.	10

Printed By: Jon Sizemore

Subtotal	328,224.80
Freight	3,500.00
Order Total	331,724.80

RESOLUTION NO. 2020-87R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AWARDING A CONTRACT TO FLEET SAFETY EQUIPMENT, INC. (KNOWN AS DANA SAFETY SUPPLY) THROUGH THE TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE BUYBOARD (CONTRACT NO. 603-20) FOR THE PURCHASE OF PATROL EQUIPMENT TO OUTFIT RECENTLY PURCHASED VEHICLES FOR THE POLICE DEPARTMENT IN THE AMOUNT OF $331,724.80; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE APPROPRIATE PURCHASE DOCUMENTS ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. A contract with Fleet Safety Equipment, Inc. (known as Dana Safety Supply), through the Texas Local Government Purchasing Cooperative BuyBoard (Contract No. 603-20), for the purchase of patrol equipment to outfit recently purchased vehicles for the Police Department in the amount of $331,724.80 is approved.

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

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

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

File #: Res. 2020-88R, **Version:** 1

AGENDA CAPTION:

Consider approval of Resolution 2020-88R, approving the following in connection with the Whisper Public Improvement District: (I) an amended and restated financing agreement with Whisper Master Community Limited Partnership, Yarrington Partners Ltd., Whisper Industrial 2019 QOZB, LLC and 135 Residential Development, LLC; (II) an improvement area #1 acquisition and reimbursement agreement with Whisper Master Community Limited Partnership, Yarrington Partners Ltd., Whisper Industrial 2019 QOZB, LLC and 135 Residential Development, LLC; and (III) an improvement area #2 acquisition and reimbursement agreement with Whisper Master Community Limited Partnership; authorizing the City Manager to execute said agreements on behalf of the City; and declaring an effective date for said agreements.

Meeting date: April 21, 2020

Department: Finance

Amount & Source of Funding

Funds Required: Click or tap here to enter text.
Account Number: Click or tap here to enter text.
Funds Available: Click or tap here to enter text.
Account Name: Click or tap here to enter text.

Fiscal Note:

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

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

Choose an item.

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

In October, 2014 the San Marcos City Council approved resolution 2014-143R making finds as to the advisability of the improvements proposed in the Whisper Public Improvement District. The Whisper PID Term sheet consisted of the following highlights:

- 281 acre business park
- 296 acres of commercial land including a Master Retail and Commercial Center
- $14,360,000 Maximum Debt with $10,398,361 of actual construction costs to reimburse developer
- Building and Site Design Standards for a 50,000 square foot commercial spec building
- Timing triggers for infrastructure improvements as well as vertical construction
- Reimbursement PID which will fund improvements to reimburse developer after certain timing triggers are met.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Staff recommends approval of the resolution approved the Financing Agreement and the Acquisition & Reimbursement Agreement for the Whisper PID development

RESOLUTION NO. 2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING THE FOLLOWING IN CONNECTION WITH THE WHISPER PUBLIC IMPROVEMENT DISTRICT: (I) AN AMENDED AND RESTATED FINANCING AGREEMENT WITH WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP, YARRINGTON PARTNERS LTD., WHISPER INDUSTRIAL 2019 QOZB, LLC AND 135 RESIDENTIAL DEVELOPMENT, LLC; (II) AN IMPROVEMENT AREA #1 ACQUISITION AND REIMBURSEMENT AGREEMENT WITH WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP, YARRINGTON PARTNERS LTD., WHISPER INDUSTRIAL 2019 QOZB, LLC AND 135 RESIDENTIAL DEVELOPMENT, LLC; AND (III) AN IMPROVEMENT AREA #2 ACQUISITION AND REIMBURSEMENT AGREEMENT WITH WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENTS ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE FOR SAID AGREEMENTS.

RECITALS:

1. On October 6, 2014, the City Council adopted Resolution No. 2014-143R authorizing the formation of the Whisper Public Improvement District.

2. Pursuant to such authorization, on September 5, 2017, the City Council adopted Resolution No. 2017-139R approving the Whisper Public Improvement District Financing Agreement.

3. The City now seeks to approve a revised financing plan under which the developer of the property within the District will construct the public improvements within the District, and to amend and restate the previously approved Whisper Public Improvement District Financing Agreement in its entirety.

4. In connection with the revised financing plan, the City seeks to approve and authorize Whisper Master Community Association, Inc., a Texas non-profit corporation to be formed by the developer of the property within the District to own, operate and maintain certain public improvements within the District for the benefit of the City pursuant to Section 372.023(a)(3) of the PID Act.

5. The City also seeks to approve an agreement under which the City will reimburse the developer of the property within Improvement Area #1 of the District for certain costs incurred in connection with construction of the public improvements allocated to Improvement Area #1 of the District.

6. Further, the City also seeks to approve an agreement under which the City will reimburse the developer of the property within Improvement Area #2 of the District for certain costs incurred in connection with construction of the public improvements allocated to Improvement Area #2 of the District.

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

PART 1. The Amended and Restated Whisper Public Improvement District Financing Agreement, substantially in the form attached hereto as Exhibit "A", is hereby approved.

PART 2. The City approves and authorizes Whisper Master Community Association, Inc., a Texas non-profit corporation to be formed by the developer of the property within the District to own, operate and maintain certain public improvements within the District for the benefit of the City pursuant to Section 372.023(a)(3) of the PID Act.

PART 3. The Whisper Public Improvement District Improvement Area #1 Acquisition and Reimbursement Agreement, substantially in the form attached hereto as Exhibit "B", is hereby approved.

PART 4. The Whisper Public Improvement District Improvement Area #2 Acquisition and Reimbursement Agreement, substantially in the form attached hereto as Exhibit "C", is hereby approved.

PART 5. The City Manager is authorized to execute the Amended and Restated Whisper Public Improvement District Financing Agreement on behalf of the City.

PART 6. The City Manager is authorized to execute the Whisper Public Improvement District Improvement Area #1 Acquisition and Reimbursement Agreement on behalf of the City.

PART 7. The City Manager is authorized to execute the Whisper Public Improvement District Improvement Area #2 Acquisition and Reimbursement Agreement on behalf of the City.

PART 8. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on April 15, 2020.

_____

Jane Hughson, Mayor

Attest:

_____

Tammy Cook, Interim City Clerk

WHISPER PUBLIC IMPROVEMENT DISTRICT
IMPROVEMENT AREA #2 ACQUISITION AND REIMBURSEMENT AGREEMENT

This Whisper Public Improvement District Improvement Area #2 Acquisition and Reimbursement Agreement (this "Reimbursement Agreement") is executed between San Marcos, Texas ("City"), and Whisper Master Community Limited Partnership, a Texas limited partnership ("Whisper MC" or "Owner"), to be effective as of _____, 2020 (each individually referred to as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, on October 6, 2014, the City Council of the City of San Marcos, Texas (the "City Council") passed and approved Resolution No. 2014-143R (the "Creation Resolution") authorizing the creation of the Whisper Public Improvement District (the "District") covering approximately 705.853 acres of land shown on a map thereof in the Creation Resolution (the "District Property"), out of which District Property approximately 52 acres is designated as "Improvement Area #2"; and

WHEREAS, on September 5, 2017, the City Council approved that certain Whisper Public Improvement District Financing Agreement by and among Whisper MC, Yarrington Partners, Ltd., a Texas limited partnership ("Yarrington") and the City, which was amended and restated on _____, 2020 pursuant to that certain Amended and Restated Whisper Public Improvement District Financing Agreement among Owner, Yarrington, Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company, and 135 Residential Development, LLC, a Texas limited liability company and the City (as it may be amended from time to time, the "PID Financing Agreement"); and

WHEREAS, assessments in the approximate amount of $_____ (the "Assessments") will be levied against the Improvement Area #2 Assessed Property (as defined in the SAP (as defined herein)) within the District for the construction of the Authorized Improvements allocated to Improvement Area #2 (the "Improvement Area #2 Projects") by the City Council, in accordance with the Whisper Public Improvement District Service and Assessment Plan (as the same may be amended or updated from time to time, the "SAP") which was approved by the City Council on _____, 2020; and

WHEREAS, Whisper MC has completed a portion of the Improvement Area #2 Projects which are more particularly described in the SAP, and proposes to construct certain other of the Improvement Area #2 Projects as more particularly described in the SAP over time, to serve Improvement Area #2 (or portions thereof), and to transfer all of those Improvement Area #2 Projects to the City or to a property owners association for the benefit of the City and subject to public easement in accordance with the terms and provisions of the PID Financing Agreement;

WHEREAS, all revenue received and collected by the City from the Assessments (including pre-payments and amounts received from the foreclosure of liens but excluding Annual Collection Costs and Delinquent Collection Costs, the "Assessment Revenue(s)") shall

be deposited (1) as provided in the Indenture (as defined herein), if PID Bonds secured by such Assessments are issued or (2) into an account established by the City under this Reimbursement Agreement, which is held by the City and is segregated from all other funds of the City (the "PID Reimbursement Fund"), if no such PID Bonds are issued or none of such PID Bonds remain outstanding For the avoidance of doubt, the Improvement Area #2 Annual Installments (excluding Annual Collection Costs and Delinquent Collection Costs) shall be included within the definition of Assessment Revenues; and

WHEREAS, proceeds derived from the issuance and sale of PID Bonds that are made available to pay Actual Costs (the "Bond Proceeds") shall be deposited into a fund, established by the City under an Indenture (and segregated from all other funds of the City) (the "Project Fund") as provided in the applicable trust indenture pursuant to which a series of PID Bonds are issued (the "Indenture");

WHEREAS, the Parties intend that the Repayment Amount (defined below) shall be reimbursed to Whisper MC from (i) the Bond Proceeds, if PID Bonds are issued or (ii) the PID Reimbursement Fund, if no such PID Bonds are issued or none of such PID Bonds remain outstanding; and

WHEREAS, capitalized terms not defined herein shall have the meaning ascribed to them in the SAP.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. Recitals. The recitals to this Reimbursement Agreement are true and correct, and are incorporated as part of this Reimbursement Agreement for all purposes.

2. Fund Deposits. Until PID Bonds are issued, the City shall bill, collect, and immediately deposit into the PID Reimbursement Fund all Assessment Revenue consisting of: (1) revenue collected from the payment of Assessments (including pre-payments and amounts received from the foreclosure of liens but excluding Annual Collection Costs and Delinquent Collection Costs); and (2) revenue collected from the payment of Improvement Area #2 Annual Installments (excluding Annual Collection Costs and Delinquent Collection Costs). Once PID Bonds are issued, the City shall bill, collect, and immediately deposit all Assessment Revenue in the manner set forth in the Indenture for such PID Bonds. The City shall also deposit Bond Proceeds and any other funds authorized or required by such Indenture in the manner set forth in such Indenture. Improvement Area #2 Annual Installments shall be billed and collected by the City (or by any person, entity, or governmental agency permitted by law) in the same manner and at the same time as City ad valorem taxes are billed and collected. Funds in the Project Fund shall only be used in accordance with the Indenture for a series of PID Bonds. Funds in the PID Reimbursement Fund shall only be used to pay Actual Costs of the Improvement Area #2 Projects or all or any portion of the Unpaid Balance (as defined herein) in accordance with this Reimbursement Agreement. Notwithstanding any other provision in this Reimbursement Agreement, the Actual Costs of Improvement Area #2 Projects shall be paid from the Assessment Revenue collected solely from Assessments levied on the Improvement Area #2 benefitting from

such Improvement Area #2 Projects.

3. Repayment Amount. Subject to the terms, conditions, and requirements contained herein, the City agrees to reimburse Whisper MC, and Whisper MC shall be entitled to receive from the City, the amount equal to the Actual Costs of the Improvement Area #2 Projects (the "Repayment Amount") plus interest on the unpaid balance in accordance with the terms of this Reimbursement Agreement until _____, 20___ (the "Maturity Date"); provided, however, the Repayment Amount shall not exceed $_____. The Repayment Amount shall be payable to Whisper MC upon completion of the Improvement Area #2 Projects, solely from: (i) the Assessment Revenues deposited in the PID Reimbursement Fund; or (ii) Bond Proceeds, to the extent that PID Bonds are issued by the City with respect to Improvement Area #2; or (iii) a combination of items (i), and (ii). Payments made from Bond Proceeds shall be made in the manner set forth in the Indenture for a series of PID Bonds. Payments made from the PID Reimbursement Fund toward any outstanding Unpaid Balance, shall first be applied to unpaid interest on such Unpaid Balance owed to the Owner, and second to unpaid principal of the Unpaid Balance owed to the Owner.

The Repayment Amount is authorized by the PID Act, was approved by the City Council, and represents the total costs to be assessed against the Improvement Area #2 Assessed Property within the District for the Improvement Area #2 Projects which, upon completion, will be (i) dedicated, conveyed, leased or otherwise provided to or for the benefit of the City a homeowners' association or property owners' association formed by an owner of any portion of Improvement Area #1 (each an "Owners Association"), and (ii) that in the case of any Improvement Area #2 Projects conveyed or dedicated to an Owners Association, such Improvement Area #2 Projects are nevertheless provided "for the benefit of" in accordance with Section 372.023 (a) of the PID Act and such Owners Association will be an entity approved by the City Council and authorized by the City to own, operate and maintain such Improvement Area #2 Projects for the City in accordance with Section 372.023(a)(3) of the PID Act. Owner acknowledges that the Improvement Area #2 Projects, together with the land, easements, or other rights-of-way needed for the Improvement Area #2 Projects, shall be dedicated, conveyed, leased or otherwise provided to or for the benefit of the City or an authorized Owners Association as provided in the PID Financing Agreement. Owner will execute such conveyances and/or dedications as may be reasonably required to evidence the same. Without limiting the generality of any of the foregoing, with respect to any Improvement Area #2 Projects that are dedicated, conveyed, leased or otherwise provided to an Owners Association as provided herein, the owner of the applicable portion Improvement Area #1 shall execute any necessary easements to the public with respect thereto in order to evidence that although such Improvement Area #2 Projects are owned and maintained by such Owners Association, the Improvement Area #2 Projects are provided for the use and benefit of the public. The unpaid Repayment Amount shall bear simple interest per annum commencing upon the completion of the Improvement Area #2 Projects at the rate of (x) 6.00% for years one through five and (y) 5.5% for years six through the Maturity Date or unless and until PID Bonds are sold. If any portion of the Repayment Amount remains unpaid after the City issues its PID Bonds, the interest rate paid to the Owner shall be the same as the interest rate on the PID Bonds; provided, however, that such rate shall not exceed 5.5%. The interest rate has been approved by the City Council and complies with the Act.

4. Unpaid Balance. The Repayment Amount, plus interest as described above (collectively, the "Unpaid Balance"), is payable to Whisper MC and secured under this Reimbursement Agreement solely as described herein. No other City funds, revenue, taxes, income, or property shall be used even if the Unpaid Balance is not paid in full at the Maturity Date. The City acknowledges and agrees that until the Unpaid Balance is paid in full, subject to the Repayment Amount authorized in Section 3, the obligation of the City to use the PID Reimbursement Fund or Bond Proceeds, as applicable, to pay the Unpaid Balance to Whisper MC is absolute and unconditional and the City does not have, and will not assert, any defenses to such obligation.

5. City Collection Efforts. The City will use all reasonable efforts to receive and collect, or cause to be received and collected, Assessment Revenues (including the foreclosure of liens resulting from the nonpayment of Assessments, the Assessments or other charges due and owing under the SAP), and upon receipt and collection, immediately deposit the same in accordance with Section 2 of this Reimbursement Agreement. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Assessments, such failure and inability shall not constitute default by the City under this Reimbursement Agreement. This Reimbursement Agreement and/or the PID Bonds shall never give rise to or create:

(a) a charge against the general credit or taxing powers of the City or any other taxing unit; or

(b) a debt or other obligation of the City payable from any source of revenue, taxes, income, or properties of the City other than from the Assessments or from Bond Proceeds.

6. Process for Payment of the Repayment Amount. Whisper MC may submit (but not more frequently than monthly) to the City a written request for payment from the Project Fund or the PID Reimbursement Fund, as applicable, in the form attached hereto as Schedule 1 (each a "Certification for Payment") to disburse a portion of the Repayment Amount to pay for the Actual Costs of constructing the applicable Improvement Area #2 Projects not previously reimbursed. Each Certification for Payment shall designate the Improvement Area #2 Projects (or portion thereof) to which the Certification for Payment pertains. This process will continue until the Unpaid Balance is paid in full, whether through the issuance of PID Bonds or not, subject to the Repayment Amount.

7. Issuance of PID Bonds. The City, in its sole, legislative discretion, may issue PID Bonds, in one or more series, when and if the City Council determines it is financially feasible for the purposes of: (1) paying the Unpaid Balance; or (2) paying directly Actual Costs of Improvement #2 Projects. PID Bonds issued for such purpose will be secured by and paid solely as authorized by the Indenture for such series of PID Bonds. Upon the issuance of PID Bonds for such purpose and for so long as PID Bonds remain outstanding, the Owner's right to receive payments each year in accordance with Section 3 shall be subordinate to the deposits required under the Indenture related to any outstanding PID Bonds and the Owner shall be entitled to receive funds pursuant to the flow of funds provisions of such Indenture. If the outstanding PID

Bonds are less than the outstanding Assessments, then, in addition to receiving the net proceeds of the PID Bonds, the Owner may continue to receive Assessments Revenue deposited into the PID Reimbursement Fund up to the Unpaid Balance, subject to the Repayment Amount.

8. Termination. Subject to the Repayment Amount, once all payments paid to Whisper MC under this Reimbursement Agreement (including net proceeds of the PID Bonds, if applicable) equal the Unpaid Balance, this Reimbursement Agreement shall terminate; provided, however that if on the Maturity Date, after application of Bond Proceeds, if any, any portion of the Unpaid Balance remains unpaid, such Unpaid Balance shall be canceled and for all purposes of this Reimbursement Agreement shall be deemed to have been conclusively and irrevocably PAID IN FULL; provided further that if any Assessment Revenue remain due and payable and are uncollected on the Maturity Date, such Assessment Revenue, when, as, and if collected after the Maturity Date, shall be applied to any amounts due in connection with outstanding PID Bonds, and then paid to Whisper MC and applied to the Unpaid Balance.

9. Non-Recourse Obligation. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from (i) Assessments, or (ii) Bond Proceeds, if applicable; and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its employees shall incur any liability hereunder to the Owner or any other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omission under this Reimbursement Agreement.

10. No Defense. Following the City's inspection and approval of the Improvement Area #2 Projects, there will be no conditions or defenses to the obligation of the City to use the Bond Proceeds to pay the Unpaid Balance and to pledge the Assessment Revenues as security for such PID Bonds, other than the City's right to pay costs of issuance of such PID Bonds and/or other costs incurred by the City relating to the Improvement Area #2 Projects. As applicable, the City hereby agrees to transfer such portion of the Assessment Revenues to the Trustee under the applicable Indenture.

11. No Waiver. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against any person or entity involved in the design, construction, or installation of the Improvement Area #2 Projects.

12. Governing Law, Venue. This Reimbursement Agreement is being executed and delivered, and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement. In the event of a dispute involving this Reimbursement Agreement, venue for such dispute shall lie in any court of competent jurisdiction in San Marcos, Texas.

13. Notice. Any notice required or contemplated by this Reimbursement Agreement shall be deemed given at the addresses shown below: (i) when delivered by a national company such as FedEx or UPS with evidence of delivery signed by any person at the delivery address

regardless of whether such person was the named addressee; or (ii) 24 hours after the notice was deposited with the United States Postal Service, Certified Mail, Return Receipt Requested. Any Party may change its address by delivering written notice of such change in accordance with this section.

If to City: City of San Marcos
Attn: Chief Financial Officer
630 East Hopkins
San Marcos, TX 78666
Facsimile: 512-396-2683

If to Owner: Whisper Master Community
Limited Partnership
9811 South IH 35
Building 3, Suite 100
Austin, Texas 78744

With copy to: McLean & Howard, L.L.P.
Attn: Jeffrey S. Howard
Barton Oaks Plaza, Building II
901 South MoPac Expressway, Suite 225
Austin, Texas 78746
Facsimile: 512-328-2409

14. Invalid Provisions. If any provision of this Reimbursement Agreement is held invalid by any court, such holding shall not affect the validity of the remaining provisions, and the remainder of this Reimbursement Agreement shall remain in full force and effect.

15. Exclusive Rights of Whisper MC. Whisper MC's right, title and interest into the payments of Repayment Amounts, as described herein, shall be the sole and exclusive property of Whisper MC (or its Transferee) and no other third party shall have any claim or right to such funds unless Whisper MC transfers its rights to its Unpaid Balance to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Subject to the terms of Section 16 hereof, Whisper MC has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of Whisper MC's right, title, or interest under this Agreement including, but not limited to, any right, title or interest of Whisper MC in and to payment of its Unpaid Balance (a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"). Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City by Whisper MC. The City may rely conclusively on any written notice of a Transfer provided to the City by Whisper MC without any obligation to investigate or confirm the Transfer.

16. Assignment.

(a) Subject to subparagraph (b) below, the Owner may, in its sole and absolute discretion, assign this Reimbursement Agreement with respect to all or part of the property within Improvement Area #2 owned by the Owner from time to time to any third party. The Owner shall provide the City thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, the Owner shall be fully released from any and all obligations under this Reimbursement Agreement and shall have no further liability with respect to this Reimbursement Agreement relating to the property within Improvement Area #2 so assigned.

(b) Any sale of a portion of the property within Improvement Area #2 or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

(c) Any sale of a portion of the property within Improvement Area #2 or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a Transfer.

(d) "Designated Successors and Assigns" shall mean (i) an entity to which the Owner assigns (in writing) its rights and obligations contained in this Reimbursement Agreement pursuant to this Section 16; (ii) any entity which is the successor by merger or otherwise to all or substantially all of the Owner's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of the Owner.

(e) The Owner waives all rights or claims against the City for any funds paid to a third party as a result of a Transfer for which the City received notice from Whisper MC. The foregoing notwithstanding, no Transfer of payments hereunder may be pledged to the payment of any debt service on public securities issued by any state of the United States or any political subdivision thereof without the approval of the City Council.

17. Failure; Default; Remedies.

(a) If any Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a "Failure") and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." Upon the occurrence of a Failure by a non-performing Party, any other Party shall notify the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least 30 days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within 30 days and the non-performing Party has diligently pursued a cure within such 30-day period and has

provided written notice to the other Parties that additional time is needed, then the cure period shall be extended for an additional period (not to exceed 90 days) so long as the non-performing Party is diligently pursuing a cure.

(b) If the Owner is in Default, the City's sole and exclusive remedy shall be to seek specific enforcement of this Reimbursement Agreement. No Default by the Owner, however, shall: (1) affect the obligations of the City to use Bond Proceedss as provided in Section 6 of this Reimbursement Agreement; or (2) entitle the City to terminate this Reimbursement Agreement. In addition to specific enforcement, the City shall be entitled to attorney's fees, court costs, and other costs of the City to obtain specific enforcement.

(c) If the City is in Default, the Owner's sole and exclusive remedies shall be to:

(1) seek a writ of mandamus to compel performance by the City; or

(2) seek specific enforcement of this Reimbursement Agreement.

18. Miscellaneous.

(a) The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by another Party, or the failure by a Party to exercise its rights upon a Default by another Party shall not constitute a waiver of such Party's right to insist and demand strict compliance by any other Party with the provisions of this Reimbursement Agreement.

(b) The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow an Owner to enforce its remedies under this Reimbursement Agreement.

(c) Nothing in this Reimbursement Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and Owner any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Owner.

(d) This Reimbursement Agreement may be amended only by written agreement of the Parties.

(e) This Reimbursement Agreement may be executed in counterparts, each of which shall be deemed an original.

19. Anti-Boycott Verification. Pursuant to Section 2271.002, Texas Government Code, the Owner hereby verifies that the Owner, and any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owner, if any, does not boycott Israel and, to the

extent this Reimbursement Agreement is a contract for goods or services, will not boycott Israel during the term of this Reimbursement Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

20. Iran, Sudan and Foreign Terrorist Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Owner represents that neither the Owner, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owner is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

https://comptroller.texas.gov/purchasing/docs/sudan- list.pdf,
https://comptroller.texas.gov/purchasing/docs/iran-list.pdf, or
https://comptroller.texas.gov/purchasing/docs/fto-list.pdf.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes the Owner, and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owner, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Owner understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties have caused this Reimbursement Agreement to be executed as of _____, 2020, to be effective as of the date written on the first page of this Reimbursement Agreement.

City of San Marcos, Texas

By:_____
Name:_____
Title:_____

[Signatures Continue on Next Page]

WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP, a Texas limited partnership

By: Whisper M.C., LLC, a Texas limited liability company, Its General Partner

By: _____

Name: _____

Title: _____

EXHIBIT A

IMPROVEMENT AREA #2 PROJECTS

The Authorized Improvements allocated to Improvement Area #2 described in the SAP.

Schedule 1

Form of Certification for Payment

(Design – Whisper)

_____ ("**Construction Manager**") hereby requests payment for the percentage of design costs completed (the "**Design Costs**") described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Amended and Restated Whisper Public Improvement District Financing Agreement between Whisper Master Community Limited Partnership, a Texas limited partnership ("**Whisper MC**"), Yarrington Partners, Ltd., a Texas limited partnership ("**Yarrington Partners**"), Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company ("**Whisper Industrial**"), and 135 Residential Development, LLC, a Texas limited liability company ("**135 Residential**"), and the City of San Marcos (the "**City**"), dated as of _____, 2020 (as may be amended from time to time, the "**Financing Agreement**"). In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this Certification for Payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.

2. The design work described in Attachment A has been completed in the percentages stated therein.

3. The true and correct Design Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted Certification for Payment.

4. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed design work described in Attachment A has been paid in full for all work completed through a previous Certification for Payment.

5. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Design Costs for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO

FORM OF CERTIFICATION FOR PAYMENT

Date :_____ [Construction Manager Signature Block to be added]

APPROVAL BY THE CITY

The Design Costs described in Attachment A has been reviewed, verified and approved by the City Construction Representative. Payment of the Design Costs are hereby approved.

Date:_____

CITY OF SAN MARCOS, TEXAS

By:_____

ATTACHMENT A TO CERTIFICATION FOR PAYMENT (DESIGN)

Description of Design Work	Percentage of Deign Work Completed under this Certification for Payment	Design Costs	Total Percentage of Design Work Completed

ATTACHMENT B TO CERTIFICATION FOR PAYMENT (DESIGN)

[attached – bills paid affidavit]

ATTACHMENT C TO CERTIFICATION FOR PAYMENT (DESIGN)

[attached – receipts]

FORM OF CERTIFICATION FOR PAYMENT
(Construction – Whisper)

_____ ("**Construction Manager**") hereby requests payment of the Actual Costs of the work described in Attachment A attached hereto (the "**Draw Actual Costs**"). Capitalized undefined terms shall have the meanings ascribed thereto in the Amended and Restated Whisper Public Improvement District Financing Agreement between Whisper Master Community Limited Partnership, a Texas limited partnership ("**Whisper MC**"), Yarrington Partners, Ltd., a Texas limited partnership ("**Yarrington Partners**"), Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company ("**Whisper Industrial**"), and 135 Residential Development, LLC, a Texas limited liability company ("**135 Residential**"), and the City of San Marcos, Texas (the "**City**"), dated as of _____, 2020 (as may be amended from time to time, the "**Financing Agreement**"). In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this Certification for Payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.

2. The true and correct Draw Actual Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted Certification for Payment.

3. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed work on the portion(s) of the Improvement Area #2 Projects described in Attachment A has been paid in full for all work completed through a previous Certification for Payment.

4. Attached hereto as Attachment Care invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Draw Actual Costs of the portion(s) of the Improvement Area #2 Projects for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO

FORM OF CERTIFICATION FOR PAYMENT

Date :_____ [Construction Manager Signature Block to Be inserted]

JOINDER OF PROJECT ENGINEER

The undersigned Project Engineer joins this Certification for Payment solely for the purposes of certifying that the representations made by Construction Manager in Paragraph 2 above are true and correct in all material respects.

_____

Project Engineer

APPROVAL BY THE CITY

The Draw Actual Costs of the portion(s) of the Improvement Area #2 Projects described in Attachment A has been reviewed, verified and approved by the City Construction Representative of the City. Payment of the Draw Actual Costs of each such portion(s) of the Improvement Area #2 Projects is hereby approved.

Date:_____

CITY OF SAN MARCOS, TEXAS

By:_____

ATTACHMENT A TO CERTIFICATION FOR PAYMENT (CONSTRUCTION)

Portion(s) of the Improvement Area #2 Projects	Description of Work Completed Under this Certification for Payment	Draw Actual Costs

ATTACHMENT B TO CERTIFICATION FOR PAYMENT (CONSTRUCTION)

[bills paid affidavit – attached]

ATTACHMENT C TO CERTIFICATION FOR PAYMENT (CONSTRUCTION)

[receipts – attached]

WHISPER PUBLIC IMPROVEMENT DISTRICT
IMPROVEMENT AREA #1 ACQUISITION AND REIMBURSEMENT AGREEMENT

This Whisper Public Improvement District Improvement Area #1 Acquisition and Reimbursement Agreement (this "Reimbursement Agreement") is executed between San Marcos, Texas ("City"), and Whisper Master Community Limited Partnership, a Texas limited partnership ("Whisper MC"), Yarrington Partners, Ltd., a Texas limited partnership ("Yarrington Partners"), Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company ("Whisper Industrial"), and 135 Residential Development, LLC, a Texas limited liability company ("135 Residential") (Whisper MC, Yarrington Partners, Whisper Industrial, and 135 Residential, including their Designated Successors and Assigns, are individually referred to herein as an "Owner" and collectively referred to herein as the "Owners"), to be effective as of _____, 2020 (each individually referred to as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, on October 6, 2014, the City Council of the City of San Marcos, Texas (the "City Council") passed and approved Resolution No. 2014-143R (the "Creation Resolution") authorizing the creation of the Whisper Public Improvement District (the "District") covering approximately 705.853 acres of land shown on a map thereof in the Creation Resolution (the "District Property"), out of which District Property approximately 653.884 acres is designated as "Improvement Area #1"; and

WHEREAS, on September 5, 2017, the City Council approved that certain Whisper Public Improvement District Financing Agreement by and among Whisper MC, Yarrington Partners and the City, which was amended and restated on _____, 2020 pursuant to that certain Amended and Restated Whisper Public Improvement District Financing Agreement among the Owners and the City (as it may be amended from time to time, the "PID Financing Agreement"); and

WHEREAS, assessments in the approximate amount of $_____ (the "Assessments") will be levied against the Improvement Area #1 Assessed Property (as defined in the SAP (as defined herein)) within the District for the construction of the Authorized Improvements allocated to Improvement Area #1 (the "Improvement Area #1 Projects") by the City Council, in accordance with the Whisper Public Improvement District Service and Assessment Plan (as the same may be amended or updated from time to time, the "SAP") which was approved by the City Council on _____, 2020; and

WHEREAS, Whisper MC has completed a portion of the Improvement Area #1 Projects which are more particularly described in the SAP, and proposes to construct certain other of the Improvement Area #1 Projects as more particularly described in the SAP over time, to serve Improvement Area #1 (or portions thereof), and to transfer all of those Improvement Area #1 Projects to the City or to a property owners association for the benefit of the City and subject to public easement in accordance with the terms and provisions of the PID Financing Agreement;

WHEREAS, all revenue received and collected by the City from the Assessments (including pre-payments and amounts received from the foreclosure of liens but excluding Annual Collection Costs and Delinquent Collection Costs, the "Assessment Revenue(s)") shall be deposited (1) as provided in the Indenture (as defined herein) if PID Bonds secured by such Assessments are issued or (2) into an account established by the City under this Reimbursement Agreement, which is held by the City and is segregated from all other funds of the City (the "PID Reimbursement Fund"), if no such PID Bonds are issued or none of such PID Bonds remain outstanding. For the avoidance of doubt, the Improvement Area #1 Annual Installments (excluding Annual Collection Costs and Delinquent Collection Costs) shall be included within the definition of Assessment Revenues; and

WHEREAS, proceeds derived from the issuance and sale of PID Bonds that are made available to pay Actual Costs (the "Bond Proceeds") shall be deposited into a fund, established by the City under an Indenture (and segregated from all other funds of the City) (the "Project Fund") as provided in the applicable trust indenture pursuant to which a series of PID Bonds are issued (the "Indenture");

WHEREAS, the Parties intend that the Repayment Amount (defined below) shall be reimbursed to Whisper MC from (i) the Bond Proceeds, if PID Bonds are issued, or (ii) the PID Reimbursement Fund, if no such PID Bonds are issued or none of such PID Bonds remain outstanding; and

WHEREAS, capitalized terms not defined herein shall have the meaning ascribed to them in the SAP.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. Recitals. The recitals to this Reimbursement Agreement are true and correct, and are incorporated as part of this Reimbursement Agreement for all purposes.

2. Fund Deposits. Until PID Bonds are issued, the City shall bill, collect, and immediately deposit into the PID Reimbursement Fund all Assessment Revenue consisting of: (1) revenue collected from the payment of Assessments (including pre-payments and amounts received from the foreclosure of liens but excluding Annual Collection Costs and Delinquent Collection Costs); and (2) revenue collected from the payment of Improvement Area #1 Annual Installments (excluding Annual Collection Costs and Delinquent Collection Costs). Once PID Bonds are issued, the City shall bill, collect, and immediately deposit all Assessment Revenue in the manner set forth in the Indenture for such PID Bonds. The City shall also deposit Bond Proceeds and any other funds authorized or required by such Indenture in the manner set forth in such Indenture. Improvement Area #1 Annual Installments shall be billed and collected by the City (or by any person, entity, or governmental agency permitted by law) in the same manner and at the same time as City ad valorem taxes are billed and collected. Funds in the Project Fund shall only be used in accordance with the Indenture for a series of PID Bonds. Funds in the PID Reimbursement Fund shall only be used to pay Actual Costs of the Improvement Area #1 Projects or all or any portion of the Unpaid Balance (as defined herein) in accordance with this

Reimbursement Agreement. Notwithstanding any other provision in this Reimbursement Agreement, the Actual Costs of Improvement Area #1 Projects shall be paid from the Assessment Revenue collected solely from Assessments levied on the Improvement Area #1 benefitting from such Improvement Area #1 Projects.

3. Repayment Amount. Subject to the terms, conditions, and requirements contained herein, the City agrees to reimburse Whisper MC, and Whisper MC shall be entitled to receive from the City, the amount equal to the Actual Costs of the Improvement Area #1 Projects (the "Repayment Amount") plus interest on the unpaid balance in accordance with the terms of this Reimbursement Agreement until _____, 20___ (the "Maturity Date"); provided, however, the Repayment Amount shall not exceed $_____. The Repayment Amount shall be payable to Whisper MC upon completion of the Improvement Area #1 Projects, solely from: (i) the Assessment Revenues deposited in the PID Reimbursement Fund; or (ii) Bond Proceeds, to the extent that PID Bonds are issued by the City with respect to Improvement Area #1; or (iii) a combination of items (i), and (ii). Payments made from Bond Proceeds shall be made in the manner set forth in the Indenture for a series of PID Bonds. Payments made from the PID Reimbursement Fund toward any outstanding Unpaid Balance, shall first be applied to unpaid interest on such Unpaid Balance owed to Whisper MC, and second to unpaid principal of the Unpaid Balance owed to Whisper MC.

The Repayment Amount is authorized by the PID Act, was approved by the City Council, and represents the total costs to be assessed against the Improvement Area #1 Assessed Property within the District for the Improvement Area #1 Projects which, upon completion, will be (i) dedicated, conveyed, leased or otherwise provided to or for the benefit of the City or a homeowners' association or property owners' association formed by an owner of any portion of Improvement Area #1 (each an "Owners Association"), and (ii) that in the case of any Improvement Area #1 Projects conveyed or dedicated to an Owners Association, such Improvement Area #1 Projects are nevertheless provided "for the benefit of" in accordance with Section 372.023 (a) of the PID Act and such Owners Association will be an entity approved by the City Council and authorized by the City to own, operate and maintain such Improvement Area #1 Projects for the City in accordance with Section 372.023(a)(3) of the PID Act. Each Owner acknowledges that the Improvement Area #1 Projects, together with the land, easements, or other rights-of-way needed for the Improvement Area #1 Projects, shall be dedicated, conveyed, leased or otherwise provided to or for the benefit of the City or an authorized Owners Association as provided in the PID Financing Agreement. Without limiting the generality of any of the foregoing, with respect to any Improvement Area #1 Projects that are dedicated, conveyed, leased or otherwise provided to an Owners Association as provided herein, the Owner of the applicable portion of Improvement Area #1 shall execute any necessary easements to the public with respect thereto in order to evidence that although such Improvement Area #1 Projects are owned and maintained by such Owners Association, the Improvement Area #1 Projects are provided for the use and benefit of the public. Each Owner will execute such conveyances and/or dedications as may be reasonably required to evidence the same. The unpaid Repayment Amount shall bear simple interest per annum commencing upon the completion of the Improvement Area #1 Projects at the rate of (x) 6.00% for years one through five and (y) 5.5% for years six through the Maturity Date or unless and until PID Bonds are sold. If any portion of the Repayment Amount remains unpaid after the City issues its PID Bonds, the interest rate paid to Whisper MC shall be the same as the interest rate on the

PID Bonds; provided, however, that such rate shall not exceed 5.5%. The interest rate has been approved by the City Council and complies with the Act.

4. Unpaid Balance. The Repayment Amount, plus interest as described above (collectively, the "Unpaid Balance"), is payable to Whisper MC and secured under this Reimbursement Agreement solely as described herein. No other City funds, revenue, taxes, income, or property shall be used even if the Unpaid Balance is not paid in full at the Maturity Date. The City acknowledges and agrees that until the Unpaid Balance is paid in full, subject to the Repayment Amount authorized in Section 3, the obligation of the City to use the PID Reimbursement Fund or Bond Proceeds, as applicable, to pay the Unpaid Balance to Whisper MC is absolute and unconditional and the City does not have, and will not assert, any defenses to such obligation.

5. City Collection Efforts. The City will use all reasonable efforts to receive and collect, or cause to be received and collected, Assessment Revenues (including the foreclosure of liens resulting from the nonpayment of Assessments), the Assessments or other charges due and owing under the SAP), and upon receipt and collection, immediately deposit the same in accordance with Section 2 of this Reimbursement Agreement. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Assessments, such failure and inability shall not constitute default by the City under this Reimbursement Agreement. This Reimbursement Agreement and/or the PID Bonds shall never give rise to or create:

(a) a charge against the general credit or taxing powers of the City or any other taxing unit; or

(b) a debt or other obligation of the City payable from any source of revenue, taxes, income, or properties of the City other than from the Assessments or from Bond Proceeds.

6. Process for Payment of the Repayment Amount. Whisper MC may submit (but not more frequently than monthly) to the City a written request for payment from the PID Reimbursement Fund or the Project Fund, as applicable, in the form attached hereto as Schedule 1 (each a "Certification for Payment") to disburse a portion of the Repayment Amount to pay for the Actual Costs of constructing the applicable Improvement Area #1 Projects not previously reimbursed. Each Certification for Payment shall designate the Improvement Area #1 Projects (or portion thereof) to which the Certification for Payment pertains. This process will continue until the Unpaid Balance is paid in full, whether through the issuance of PID Bonds or not, subject to the Repayment Amount.

7. Issuance of PID Bonds. The City, in its sole, legislative discretion, may issue PID Bonds, in one or more series, when and if the City Council determines it is financially feasible for the purposes of: (1) paying the Unpaid Balance; or (2) paying directly Actual Costs of Improvement #1 Projects. PID Bonds issued for such purpose will be secured by and paid solely as authorized by the Indenture for such series of PID Bonds. Upon the issuance of PID Bonds for such purpose and for so long as PID Bonds remain outstanding, Whisper MC's right to receive payments each year in accordance with Section 3 shall be subordinate to the deposits required

under the Indenture related to any outstanding PID Bonds and Whisper MC shall be entitled to receive funds pursuant to the flow of funds provisions of such Indenture. If the outstanding PID Bonds are less than the outstanding Assessments, then, in addition to receiving the net proceeds of the PID Bonds, Whisper MC may continue to receive Assessment Revenue deposited into the PID Reimbursement Fund up to the Unpaid Balance, subject to the Repayment Amount.

8. Termination. Subject to the Repayment Amount, once all payments paid to Whisper MC under this Reimbursement Agreement (including net proceeds of the PID Bonds, if applicable) equal the Unpaid Balance, this Reimbursement Agreement shall terminate; provided, however that if on the Maturity Date, after application of Bond Proceeds, if any, any portion of the Unpaid Balance remains unpaid, such Unpaid Balance shall be canceled and for all purposes of this Reimbursement Agreement shall be deemed to have been conclusively and irrevocably PAID IN FULL; provided further that if any Assessment Revenue remain due and payable and are uncollected on the Maturity Date, such Assessment Revenue, when, as, and if collected after the Maturity Date, shall be applied to any amounts due in connection with outstanding PID Bonds, and then paid to Whisper MC and applied to the Unpaid Balance.

9. Non-Recourse Obligation. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from (i) Assessments, or (ii) Bond Proceeds, if applicable; and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its employees shall incur any liability hereunder to Whisper MC or any other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omission under this Reimbursement Agreement.

10. No Defense. Following the City's inspection and approval of the Improvement Area #1 Projects, there will be no conditions or defenses to the obligation of the City to use Bond Proceeds to pay the Unpaid Balance and to pledge the Assessment Revenues as security for such PID Bonds, other than the City's right to pay costs of issuance of such PID Bonds and/or other costs incurred by the City relating to the Improvement Area #1 Projects. As applicable, the City hereby agrees to transfer such portion of the Assessment Revenues to the Trustee under the applicable Indenture.

11. No Waiver. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against any person or entity involved in the design, construction, or installation of the Improvement Area #1 Projects.

12. Governing Law, Venue. This Reimbursement Agreement is being executed and delivered, and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement. In the event of a dispute involving this Reimbursement Agreement, venue for such dispute shall lie in any court of competent jurisdiction in San Marcos, Texas.

13. Notice. Any notice required or contemplated by this Reimbursement Agreement

shall be deemed given at the addresses shown below: (i) when delivered by a national company such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person was the named addressee; or (ii) 24 hours after the notice was deposited with the United States Postal Service, Certified Mail, Return Receipt Requested. Any Party may change its address by delivering written notice of such change in accordance with this section.

If to City: City of San Marcos
Attn: Chief Financial Officer
630 East Hopkins
San Marcos, TX 78666
Facsimile: 512-396-2683

If to Owner: Whisper Master Community
Limited Partnership
9811 South IH 35
Building 3, Suite 100
Austin, Texas 78744

Yarrington Partners, Ltd.
9811 South IH 35
Building 3, Suite 100
Austin, Texas 78744

Whisper Industrial 2019 QOZB, LLC
9811 South IH 35
Building 3, Suite 100
Austin, Texas 78744

135 Residential Development, LLC
9811 South IH 35
Building 3, Suite 100
Austin, Texas 78744

With copy to: McLean & Howard, L.L.P.
Attn: Jeffrey S. Howard
Barton Oaks Plaza, Building II
901 South MoPac Expressway, Suite 225
Austin, Texas 78746
Facsimile: 512-328-2409

With a copy to: John C. Lewis Company
3839 Bee Cave Road, Suite 204
Austin, Texas 78746

14. Invalid Provisions. If any provision of this Reimbursement Agreement is held invalid by any court, such holding shall not affect the validity of the remaining provisions, and the remainder of this Reimbursement Agreement shall remain in full force and effect.

15. Exclusive Rights of Whisper MC. Whisper MC's right, title and interest into the payments of Repayment Amounts, as described herein, shall be the sole and exclusive property of Whisper MC (or its Transferee) and no other third party shall have any claim or right to such funds unless Whisper MC transfers its rights to its Unpaid Balance to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Subject to the terms of Section 16 hereof, Whisper MC has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of Whisper MC's right, title, or interest under this Agreement including, but not limited to, any right, title or interest of Whisper MC in and to payment of its Unpaid Balance (a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"). Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City by Whisper MC. The City may rely conclusively on any written notice of a Transfer provided to the City by Whisper MC without any obligation to investigate or confirm the Transfer.

16. Assignment.

(a) Subject to subparagraph (b) below, any Owner may, in its sole and absolute discretion, assign this Reimbursement Agreement with respect to all or part of the property within Improvement Area #1 owned by such Owner from time to time to any third party. An Owner shall provide the City thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, such Owner shall be fully released from any and all obligations under this Reimbursement Agreement and shall have no further liability with respect to this Reimbursement Agreement relating to the property within Improvement Area #1 so assigned.

(b) Any sale of a portion of the property within Improvement Area #1 or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

(c) Any sale of a portion of the property within Improvement Area #1 or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a Transfer.

(d) "Designated Successors and Assigns" shall mean (i) an entity to which an Owner assigns (in writing) its rights and obligations contained in this Reimbursement Agreement pursuant to this Section 16; (ii) any entity which is the successor by merger or

otherwise to all or substantially all of such Owner's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of such Owner.

(e) The Owner waives all rights or claims against the City for any funds paid to a third party as a result of a Transfer for which the City received notice from Whisper MC. The foregoing notwithstanding, no Transfer of payments hereunder may be pledged to the payment of debt service on public securities issued by any state of the United States or any political subdivision thereof without the approval of the City Council.

17. Failure; Default; Remedies.

(a) If any Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a "Failure") and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." Upon the occurrence of a Failure by a non-performing Party, any other Party shall notify the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least 30 days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within 30 days and the non-performing Party has diligently pursued a cure within such 30-day period and has provided written notice to the other Parties that additional time is needed, then the cure period shall be extended for an additional period (not to exceed 90 days) so long as the non-performing Party is diligently pursuing a cure.

(b) If an Owner is in Default, the City's sole and exclusive remedy shall be to seek specific enforcement of this Reimbursement Agreement. No Default by any Owner, however, shall: (1) affect the obligations of the City to use the Bond Proceeds as provided in Section 6 of this Reimbursement Agreement; or (2) entitle the City to terminate this Reimbursement Agreement. In addition to specific enforcement, the City shall be entitled to attorney's fees, court costs, and other costs of the City to obtain specific enforcement.

(c) If the City is in Default, the Owner's sole and exclusive remedies shall be to:

(1) seek a writ of mandamus to compel performance by the City; or

(2) seek specific enforcement of this Reimbursement Agreement.

18. Miscellaneous.

(a) The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by another Party, or the failure by a Party to exercise its rights upon a Default by another Party shall not constitute a waiver of such Party's right to insist and demand strict compliance by any other Party with the provisions of this

Reimbursement Agreement.

(b) The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow an Owner to enforce its remedies under this Reimbursement Agreement.

(c) Nothing in this Reimbursement Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and Owner any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Owner.

(d) This Reimbursement Agreement may be amended only by written agreement of the Parties.

(e) This Reimbursement Agreement may be executed in counterparts, each of which shall be deemed an original.

19. Anti-Boycott Verification. Pursuant to Section 2271.002, Texas Government Code, the Owners hereby verify that the Owners, and any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owners, if any, do not boycott Israel and, to the extent this Reimbursement Agreement is a contract for goods or services, will not boycott Israel during the term of this Reimbursement Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Owners understand "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owners and exists to make a profit.

20. Iran, Sudan and Foreign Terrorist Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Owners represent that neither the Owners, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owners are a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

https://comptroller.texas.gov/purchasing/docs/sudan- list.pdf,
https://comptroller.texas.gov/purchasing/docs/iran-list.pdf, or
https://comptroller.texas.gov/purchasing/docs/fto-list.pdf.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and

excludes the Owners, and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owners, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Owners understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Owners and exists to make a profit.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties have caused this Reimbursement Agreement to be executed as of _____, 2020, to be effective as of the date written on the first page of this Reimbursement Agreement.

City of San Marcos, Texas

By:_____
Name:_____
Title:_____

[Signatures Continue on Next Page]

WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP, a Texas limited partnership

By: Whisper M.C., LLC, a Texas limited liability company, Its General Partner

By: _____

Name: _____

Title: _____

YARRINGTON PARTNERS, LTD., a Texas limited partnership

By: Texas Realty/Retail Partners, Inc., a Texas corporation, Its General Partner

By: _____

Name: _____

Title: _____

By: 501 W. 15th, Inc., a Texas corporation, Its General Partner

By: _____

Name: _____

Title: _____

WHISPER INDUSTRIAL 2019 QOZB, LLC, a Texas limited liability company

By:_____
Name:_____
Title:_____

135 RESIDENTIAL DEVELOPMENT, LLC, a Texas limited liability company

By:_____
Name:_____
Title:_____

EXHIBIT A

IMPROVEMENT AREA #1 PROJECTS

The Authorized Improvements allocated to Improvement Area #1 described in the SAP.

Schedule 1

Form of Certification for Payment

(Design – Whisper)

_____ ("**Construction Manager**") hereby requests payment for the percentage of design costs completed (the "**Design Costs**") described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Amended and Restated Whisper Public Improvement District Financing Agreement between Whisper Master Community Limited Partnership, a Texas limited partnership ("**Whisper MC**"), Yarrington Partners, Ltd., a Texas limited partnership ("**Yarrington Partners**"), Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company ("**Whisper Industrial**"), and 135 Residential Development, LLC, a Texas limited liability company ("**135 Residential**"), and the City of San Marcos (the "**City**"), dated as of _____, 2020 (as may be amended from time to time, the "**Financing Agreement**"). In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this Certification for Payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.

2. The design work described in Attachment A has been completed in the percentages stated therein.

3. The true and correct Design Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted Certification for Payment.

4. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed design work described in Attachment A has been paid in full for all work completed through a previous Certification for Payment.

5. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Design Costs for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO

FORM OF CERTIFICATION FOR PAYMENT

Date :_____ [Construction Manager Signature Block to be added]

APPROVAL BY THE CITY

The Design Costs described in Attachment A has been reviewed, verified and approved by the City Construction Representative. Payment of the Design Costs are hereby approved.

Date:_____

CITY OF SAN MARCOS, TEXAS

By:_____

ATTACHMENT A TO CERTIFICATION FOR PAYMENT (DESIGN)

Description of Design Work	Percentage of Deign Work Completed under this Certification for Payment	Design Costs	Total Percentage of Design Work Completed

ATTACHMENT B TO CERTIFICATION FOR PAYMENT (DESIGN)

[attached – bills paid affidavit]

ATTACHMENT C TO CERTIFICATION FOR PAYMENT (DESIGN)

[attached – receipts]

FORM OF CERTIFICATION FOR PAYMENT
(Construction – Whisper)

_____ ("**Construction Manager**") hereby requests payment of the Actual Costs of the work described in Attachment A attached hereto (the "**Draw Actual Costs**"). Capitalized undefined terms shall have the meanings ascribed thereto in the Amended and Restated Whisper Public Improvement District Financing Agreement between Whisper Master Community Limited Partnership, a Texas limited partnership ("**Whisper MC**"), Yarrington Partners, Ltd., a Texas limited partnership ("**Yarrington Partners**"), Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company ("**Whisper Industrial**"), and 135 Residential Development, LLC, a Texas limited liability company ("**135 Residential**"), and the City of San Marcos, Texas (the "**City**"), dated as of _____, 2020 (as may be amended from time to time, the "**Financing Agreement**"). In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this Certification for Payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.

2. The true and correct Draw Actual Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted Certification for Payment.

3. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed work on the portion(s) of the Improvement Area #1 Projects described in Attachment A has been paid in full for all work completed through a previous Certification for Payment.

4. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Draw Actual Costs of the portion(s) of the Improvement Area #1 Projects for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO

FORM OF CERTIFICATION FOR PAYMENT

Date :_____ [Construction Manager Signature Block to Be inserted]

JOINDER OF PROJECT ENGINEER

The undersigned Project Engineer joins this Certification for Payment solely for the purposes of certifying that the representations made by Construction Manager in Paragraph 2 above are true and correct in all material respects.

_____

Project Engineer

APPROVAL BY THE CITY

The Draw Actual Costs of the portion(s) of the Improvement Area #1 Projects described in Attachment A has been reviewed, verified and approved by the City Construction Representative of the City. Payment of the Draw Actual Costs of each such portion(s) of the Improvement Area #1 Projects is hereby approved.

Date:_____

CITY OF SAN MARCOS, TEXAS

By:_____

ATTACHMENT A TO CERTIFICATION FOR PAYMENT (CONSTRUCTION)

Portion(s) of the Improvement Area #1 Projects	Description of Work Completed Under this Certification for Payment	Draw Actual Costs

ATTACHMENT B TO CERTIFICATION FOR PAYMENT (CONSTRUCTION)

[bills paid affidavit – attached]

ATTACHMENT C TO CERTIFICATION FOR PAYMENT (CONSTRUCTION)

[receipts – attached]

AMENDED AND RESTATED WHISPER PUBLIC IMPROVEMENT DISTRICT FINANCING AGREEMENT

BETWEEN

WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP, a Texas limited partnership

YARRINGTON PARTNERS, LTD., a Texas limited partnership

WHISPER INDUSTRIAL 2019 QOZB, LLC, a Texas limited liability company

135 RESIDENTIAL DEVELOPMENT, LLC, a Texas limited liability company

AND

CITY OF SAN MARCOS, TEXAS

AMENDED AND RESTATED
WHISPER PUBLIC IMPROVEMENT DISTRICT
FINANCING AGREEMENT

This Amended and Restated Whisper Public Improvement District Financing Agreement (this "**Agreement**"), dated as of _____, 2020, (the "**Effective Date**"), is entered into between Whisper Master Community Limited Partnership, a Texas limited partnership ("**Whisper MC**"), Yarrington Partners, Ltd., a Texas limited partnership ("**Yarrington Partners**"), Whisper Industrial 2019 QOZB, LLC, a Texas limited liability company ("**Whisper Industrial**"), and 135 Residential Development, LLC, a Texas limited liability company ("**135 Residential**") (Whisper MC, Yarrington Partners, Whisper Industrial, and 135 Residential are collectively referred to herein as the "**Owners**"), and the City of San Marcos, Texas (the "**City**"), acting by and through its duly authorized representative.

Recitals:

WHEREAS, Whisper MC owns a total of approximately 442.966 acres of land located within the City which is more particularly described in Exhibit "B-1" attached hereto and made a part hereof (the "**Whisper MC Property**");

WHEREAS, Yarrington Partners owns a total of approximately 115.686 acres of land located within the City which is more particularly described in Exhibit "B-2" attached hereto and made a part hereof (the "**Yarrington Property**");

WHEREAS, Whisper Industrial owns a total of approximately 16.560 acres of land located within the City which is more particularly described in Exhibit "B-3" attached hereto and made a part hereof (the "**Whisper Industrial Property**");

WHEREAS, 135 Residential owns a total of approximately 130.641 acres of land located within the City which is more particularly described in Exhibit "B-4" attached hereto and made a part hereof (the "**135 Residential Property**");

WHEREAS, the Whisper MC Property. the Yarrington Property, the Whisper Industrial Property, and the 135 Residential Property are collectively referred to herein as the "**Property**," and it is intended that the Property will be developed as a mixed-use development (the "**Project**");

WHEREAS, the terms of annexation and zoning of the Property have been agreed to by the City and the Owners pursuant to the Whisper Planned Development District agreement (the "**PDD**") which was approved by the City on June 27, 2017;

WHEREAS, the City Council authorized the formation of the Whisper Public Improvement District (the "**District**") on October 6, 2014, pursuant to a City Resolution in accordance with the PID Act;

WHEREAS, pursuant to the terms of the original Whisper Public Improvement District

Financing Agreement dated September 5, 2017 (the "**Original Agreement**") and pursuant to the terms of this Agreement, the City has agreed to allow financing of certain public improvements conferring special benefits to the Property via a public improvement district;

WHEREAS, Whisper MC has caused the construction of certain public improvements, and proposes to construct certain other public improvements over time, to serve Property located in the District (or portions thereof) and transfer some or all of those improvements to the City or to a property owners association approved and authorized by the City pursuant to Section 372.023(a) of the PID Act (an "**Owners Association**") for the benefit of the City in accordance with the terms and provisions of this Agreement;

WHEREAS, the City intends to (upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement) adopt the Whisper Public Improvement District Service and Assessment Plan (the "**Service and Assessment Plan**"), approve one or more Assessment Ordinances (as defined in the Service and Assessment Plan) and levy Assessments (as defined in the Service and Assessment Plan) on all or a portion of the property located within the District and issue bonds in one or more series for payment of costs associated with construction and/or acquisition of the Authorized Improvements (as defined in the Service and Assessment Plan) included in the Service and Assessment Plan, as such plan may be amended from time to time; and

WHEREAS, the City has determined that it is in its best interests to contract with the Owners for the construction of the Authorized Improvements, which will result in the efficient and effective financing of the costs associated with the implementation of the Service and Assessment Plan.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree that the Original Agreement is hereby amended, superseded, and restated as set forth herein and further agree as follows:

ARTICLE I. SCOPE OF AGREEMENT

This Agreement establishes provisions for the apportionment, levying, and collection of Assessments on the Property (Article II), the construction of Authorized Improvements to be acquired by the City (Article III), funding of Authorized Improvements through the issuance of PID Bonds, acquisition and maintenance of Authorized Improvements within the District (Article IV), and the issuance of bonds for the financing of the Authorized Improvements (Article V). Definitions used herein are as set forth in the Service and Assessment Plan.

ARTICLE II. APPORTIONMENT, LEVY AND COLLECTION OF ASSESSMENTS

Section 2.01. Preliminary Matters

(a) On October 6, 2014, the City authorized the formation of the District by Resolution No. 2014-143R. The District includes all of the Property.

(b) A draft of the initial Service and Assessment Plan for the Property is attached hereto as Exhibit "C." The Owners acknowledge and agree that the Service and Assessment Plan must meet the requirements of Texas law; including, Texas Local Government Code Sections 372.013 and 372.014 and be presented to the City Council for review and approval prior to approval of the Assessment Ordinance(s) and PID Bonds being issued. The final Service and Assessment Plan approved pursuant to the Assessment Ordinance(s) shall be substantially similar to the draft attached hereto as Exhibit "C" and shall be substituted for and replace Exhibit "C", hereto. Thereafter, the Service and Assessment Plan will be updated and amended by the City or its Administrator at least once per year, and submitted for the City Council's review and approval. Notwithstanding the above, it is hereby understood and acknowledged by the Parties that the Service and Assessment Plan may need to be amended over time if there are any changes in the Authorized Improvements. Nevertheless, the basic terms and methodology described in the Service and Assessment Plan will generally apply to the PID Bonds, and other reimbursements due to Whisper MC.

(c) Assessments on any portion of the Property will bear a direct proportional relationship to, and be less than or equal to, the special benefit of the Authorized Improvements within the District.

(d) Assessments on any portion of the Property may be adjusted in connection with subsequent PID Bond issues or otherwise so long as the Assessments are determined in accordance with the Service and Assessment Plan.

(e) The Property may also be subject to one or more Owners Association assessment(s) if established by the Owners. The City hereby acknowledges and agrees that (i) the Authorized Improvements will be dedicated, conveyed, leased or otherwise provided to or for the benefit of the City or an Owners Association, and (ii) that any Authorized Improvements conveyed or dedicated to an Owners Association are provided "for the benefit of" the City in accordance with Section 372.023 (a) of the PID Act and such Owners Association will be an entity authorized and approved by the City Council and authorized by the City to own, operate and maintain such Authorized Improvements for the City in accordance with Section 372.023(a)(3) of the PID Act. Without limiting the generality of any of the foregoing, with respect to any Authorized Improvements that are dedicated, conveyed, leased or otherwise provided to an Owners Association as provided herein, the applicable Owners Association shall execute any necessary easements to the public with respect thereto in order to evidence that although such Authorized Improvements are owned and maintained by such Owners Association, the Authorized Improvements are provided for the use and benefit of the public.

(f) Promptly following submission to the City of the initial or an updated Service and Assessment Plan (or any subsequent amendment or supplement to the Service and Assessment Plan) acceptable in form and substance to the City and to the Owners with respect to the matters therein that require approval by the Owners as provided in this Agreement, the City Council shall consider, if applicable, one or more Assessment Ordinances relating to the applicable plan or amendment or supplement. If an Assessment Ordinance is adopted, the City shall use reasonable, good faith efforts to expeditiously initiate and approve all necessary documents and

orders required to effectuate the Service and Assessment Plan and Assessment Ordinance.

Section 2.02. Apportionment and Levy of Assessments

The City will levy Assessments on the Property in accordance herewith and with the Service and Assessment Plan (as such plan is amended from time to time) at such time as an Assessment Ordinance is approved by the City Council in accordance with Article IV hereof. The City's apportionment and levy of Assessments will be made in accordance with the PID Act.

Section 2.03. Collection of Assessments

(a) Subject to the terms and conditions of this Agreement, the City covenants and agrees that it shall, as authorized by the PID Act and other applicable law, continuously collect or cause to be collected Assessments levied pursuant to one or more Assessment Ordinances in accordance with the Service and Assessment Plan during the term of this Agreement in the manner and to the maximum extent permitted by applicable law. The City covenants and agrees that to the extent permitted by applicable law, it will not permit a reduction, abatement, or exemption in the Assessments due on any portion of the Property until (i) any PID Bonds related to that particular portion of the Property are no longer considered outstanding, whether as a result of payment in full, defeasance, or otherwise, and (ii) any other reimbursements due to Whisper MC hereunder are paid. The City shall use best efforts to collect the Assessments consistent with the City's policies and standard practices applicable to the collection of City taxes and assessments.

(b) It is the current intention of the City and the Owners that proceeds from PID Bonds will fund the Authorized Improvements allocated to Improvement Area #1 and that the Assessments received from Improvement Area #2 will fund the Authorized Improvements allocated to Improvement Area #2. Notwithstanding that current intention, the parties acknowledge and agree that Whisper MC may elect to request PID Bond issuance to fund the Authorized Improvements allocated to Improvement Area # 2 at some point in the future. The parties hereto agree that in the event of any future Bond Issuance Request (as defined herein) for Improvement Area #2, the applicable terms of this Agreement related to collection of Assessments, PID Bond issuance and reimbursement of Actual Costs for Improvement Area #1 shall also apply to Improvement Area #2 and that the Parties shall reasonably cooperate and take any necessary or appropriate steps to effectuate such funding. It is hereby acknowledged that Assessments can be used for the following purposes: (i) after completion of the applicable Authorized Improvements, but prior to the issuance of PID Bonds if a request for a PID Bond issuance (a "**Bond Issuance Request**") is submitted in accordance with Section 5.01(a) below, if any, for those Authorized Improvements, Whisper MC shall be reimbursed for some or all of the Actual Costs associated with those Authorized Improvements as requested by Whisper MC in its sole discretion incurred prior to the issuance of the PID Bonds from Assessments collected by the City and held by the City pursuant to an applicable acquisition and reimbursement agreement between Whisper MC, any other applicable Owner and the City (each an "**Acquisition and Reimbursement Agreement**"); (ii) after any PID Bonds are issued with respect to any given completed Authorized Improvements allocated to Improvement Area #1, the Assessments levied

on Improvement Area #1 will be used first to secure such PID Bonds and second, to the extent any such Assessments are remaining after payments are made on the PID Bonds, to reimburse Whisper MC for any Actual Costs not reimbursed by the PID Bonds; (iii) after completion of the Authorized Improvements applicable to Improvement Area #2, Whisper MC shall be reimbursed for the Actual Costs associated with the Authorized Improvements allocated to Improvement Area #2 only to the amount of the Assessment levied on Improvement Area #2, pursuant to the applicable Acquisition and Reimbursement Agreement; and (iv) after completion of the applicable Authorized Improvements, if Whisper MC does not submit a Bond Issuance Request and no PID Bonds are issued, Whisper MC shall be reimbursed for all of the Actual Costs associated with those Authorized Improvements only to the amount of the Assessment levied. In the event of any future Bond Issuance Request for Improvement Area #2, clause (ii) above shall also apply with respect to Improvement Area #2. The interest shall be calculated at (x) the maximum interest rate permitted by the PID Act prior to PID Bond issuance or (y) the interest rate of the PID Bonds after PID Bond issuance, calculated from the respective dates of the expenditures until the date of reimbursement therefore. Interest does not accrue until the applicable Authorized Improvement is accepted by the City.

(c) Notwithstanding anything to the contrary contained herein or in the Service and Assessment Plan, once PID Bonds have been issued, the Assessments collected annually from the area of the Property for which PID Bonds were issued will be deposited in the Pledged Revenue Fund created pursuant to an Indenture and thereafter transferred in the priority as set forth in such Indenture.

(d) Further, notwithstanding anything to the contrary contained herein, the City covenants and agrees to use best efforts to contract with the Hays County Tax Collector for the collection of the Assessments such that the Assessments will be included on the ad valorem tax bill(s) for the Property and will be collected as part of and in the same manner as ad valorem taxes.

Section 2.04. Approval and Recordation of Assessments through Landowner Agreement

Concurrently with the levy of the Assessments for any portion of the Property, the Owners shall execute (and shall cause any other owner of any of the Property that will be subject to the future special assessments to execute) a Landowner Agreement (herein so called) in which the Landowner shall approve and accept the apportionment of Assessments in the Service and Assessment Plan and the levy of the Assessments by the City. The Landowner Agreement further shall (a) evidence the Owners' intent that the Assessments be covenants running with the land that (i) will bind any and all current and successor owners of the Property to the Assessments, including applicable interest thereon, as and when due and payable thereunder and (ii) provide that subsequent purchasers of such land take their title subject to and expressly assume the terms and provisions of the Assessments; and (b) provide that the liens created by the levy of the Assessments are a first and prior lien on the Property, subject only to liens for ad valorem taxes of the State, County, City, or school district.

Section 2.05. Reimbursement of Owner-Expended Costs

(a) Whisper MC's right, title and interest in and to the payments of unreimbursed Actual Costs, as described herein, shall be the sole and exclusive property of Whisper MC (or its Transferee (as defined below)) and no other third party shall have any claim or right to such funds unless Whisper MC transfers its rights to its unreimbursed Actual Costs to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Subject to the terms of Section 8.03 hereof, Whisper MC has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of Whisper MC's right, title, or interest under this Agreement including, but not limited to, any right, title or interest of Whisper MC in and to payment of its unreimbursed Actual Costs (a "**Transfer**," and the person or entity to whom the transfer is made, a "**Transferee**"). The foregoing notwithstanding, no Transfer of payments hereunder may be pledged to the payment of debt service on public securities issued by any state of the United States or any political subdivision thereof without the approval of the City Council. Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City. The City may rely conclusively on any written notice of a Transfer provided by Whisper MC without any obligation to investigate or confirm the Transfer.

Section 2.06. Obligations Secured by Pledged Revenues

THE PID BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY SECURED SOLELY BY PLEDGED REVENUES (AS DEFINED IN AN INDENTURE) AND ANY OTHER FUNDS HELD UNDER AN INDENTURE, AS AND TO THE EXTENT PROVIDED IN AN INDENTURE. THE PID BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY AND ARE NOT SECURED EXCEPT AS PROVIDED IN AN INDENTURE. THE OWNERS OF ANY BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND ANY OTHER FUNDS HELD UNDER AN INDENTURE, AS AND TO THE EXTENT PROVIDED IN AN INDENTURE. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO THE OWNERS OF ANY PID BONDS TO PAY ANY PID BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES.

ARTICLE III. CONSTRUCTION AND ACQUISITION

Section 3.01. Acquisition of Authorized Improvements

(a) The Owners will dedicate, convey, lease or otherwise provide the applicable Authorized Improvements identified in Exhibit "D" to the City or to an Owners Association as described herein upon completion of Authorized Improvements, and the City will accept and/ or allow such dedication or conveyance of such Authorized Improvements after confirming that the Authorized Improvements have been completed in accordance with this Agreement and any applicable regulatory requirements. Some of the Authorized Improvements may be dedicated or conveyed to the City or Owners Association by grant of an easement for the benefit of the City or Owners Association.

Section 3.02. Designation of Construction Manager, Construction Engineers

(a) The City hereby designates Whisper MC, or its assignees, as the Construction Manager with full responsibility for the design, the designation of easement locations, facilities site designations and acquisitions, supervision of construction, and the bidding and letting of construction contracts for the construction of the Authorized Improvements in accordance with the provisions of this Article III and in accordance with any requirements of the City and, as applicable, City approved plans.

(b) Except as otherwise provided herein, inspection of the construction of any Authorized Improvement being conveyed to the City will be by the City's construction representative or its designee. Any City inspection of an Authorized Improvement being conveyed to the City will be in accordance with any requirements of the City.

(c) Whisper MC shall be entitled to a separate "Construction Management Fee" for the construction of each portion of the Authorized Improvements, unless Whisper MC contracts with a third party to act as the Construction Manager with respect to construction of the Authorized Improvements. The Construction Management Fee is part of Actual Costs and will be paid as part of the Actual Costs.

(d) The City shall cooperate with Whisper MC in connection with its services as Construction Manager.

(e) Whisper MC shall designate the consulting engineers for the Authorized Improvements for the compensation specified by Whisper MC.

Section 3.03. Designation of Construction Manager Subcontractor

The City acknowledges and agrees that Whisper MC may subcontract out all or some of the duties of Construction Manager to a third party. Whisper MC may designate an individual, company, or partnership or other entity as a subcontractor for construction management services for one or more Authorized Improvements or distinct portions thereof provided that such designee has the technical capacity, experience and expertise to perform such construction management duties or obligations. Whisper MC may make such designation under the same terms as set out in Section 8.03(a) of this Agreement.

Section 3.04. Maintenance of Project, Warranties

Unless otherwise provided for, the Owners shall maintain each Authorized Improvement (or portion thereof) in good and safe condition until such Authorized Improvement (or portion thereof) is accepted by the City for dedication or conveyance to the City or an Owners Association as applicable. The City's acceptance of Authorized Improvements shall be in accordance with the City's standard rules and procedures for the type of improvements being constructed. Prior to such acceptance, the Owners shall be responsible for performing any required maintenance on such Authorized Improvement. On or before the acceptance by the

City of an Authorized Improvement (or portion thereof), the Owners shall assign to the City or Owners Association as applicable all of the Owners' rights in any warranties, guarantees, maintenance obligations, or other evidences of contingent obligations of third persons with respect to such Authorized Improvement (or portion thereof).

Section 3.05. Sales and Use Tax Exemptions

(a) The parties agree that, as municipally and publicly owned and acquired properties, all costs of materials, other properties and services used in constructing the Authorized Improvements to be acquired by the City are currently exempt under the Texas Tax Code from sales and use taxes levied by the State of Texas, or by any County, City, special district, or other political subdivision of the State, as set forth in Texas Tax Code Section 151.309, which may change with future action by the Texas Legislature.

(b) The City will provide such certifications to the Owners and/or to suppliers and contractors as may be required to assure such exemptions.

(c) The City and the Owners shall cooperate in structuring the construction contracts for the Authorized Improvements to comply with requirements (including those set forth in Texas Tax Code Section 151.309) for exemption from sales and use taxes.

Section 3.06. Exemption from Public Bidding

(a) It is agreed that the Authorized Improvements are currently exempt from any public bidding or other purchasing and procurement policies pursuant to Texas Local Government Code Section 252.022(a)(9), which may change with future action by the Texas Legislature.

Section 3.07. Project Timetable

(a) Construction plans for the Authorized Improvements have been submitted to the City for review and approved by the City prior to the Effective Date.

ARTICLE IV. PAYMENT FOR AUTHORIZED IMPROVEMENTS

Section 4.01. Overall Requirements

(a) The City shall not be obligated to provide funds for any Authorized Improvement except from the proceeds of the PID Bonds or from Assessments as provided in Section 2.03(b) above; provided, however the City and the Owners have entered into an Oversize Participation Agreement dated December 19, 2017 under which the City has agreed to fund the costs of any public improvements or oversizing of Authorized Improvements above and beyond the infrastructure needed to serve the Project. The City makes no warranty, either express or implied, that the proceeds of the PID Bonds available for the payment of the Actual Cost of the Authorized Improvements to be constructed for or acquired by the City will be sufficient for the

construction or acquisition of all of those particular Authorized Improvements. The Parties acknowledge that the Actual Cost to construct the Authorized Improvements may be greater than the proceeds of the PID Bonds and Assessments available for Authorized Improvements and any shortfalls will be funded by Whisper MC, subject to Section 2.03(b).

(b) Upon written acceptance of an Authorized Improvement, and subject to any applicable maintenance-bond period if a maintenance bond is required pursuant to applicable City regulations, the City or Owners Association as applicable shall be responsible for all operation and maintenance of such Authorized Improvements, including all costs thereof and relating thereto.

(c) The Authorized Improvements are intended to be constructed pursuant to one or more Acquisition and Reimbursement Agreements and paid for by Whisper MC prior to (i) the issuance of PID Bonds intended to fund such Authorized Improvements or (ii) the collection of Assessments if PID Bonds are not issued for an Authorized Improvement. Such funding of the Authorized Improvements will be governed by the applicable Acquisition and Reimbursement Agreement and Section 4.02 of this Agreement.

Section 4.02. Payments for Completed Authorized Improvements

The Actual Costs of all Authorized Improvements will be financed initially through Acquisition and Reimbursement Agreements. Pursuant to the terms of an Acquisition and Reimbursement Agreement entered into following letting the construction contract for an applicable Authorized Improvement, Whisper MC shall convey, and the City or Owners Association as applicable shall acquire, the given Authorized Improvement for the Actual Cost, after such Authorized Improvement is completed and has been accepted by the City. The general process for funding of Authorized Improvements is as follows:

(a) The following provisions apply with respect to the Authorized Improvements:

(1) The City and Owners will execute one or more Acquisition and Reimbursement Agreements which will provide for Assessments that will reimburse Whisper MC for Actual Costs incurred in connection with the Authorized Improvements until the PID Bonds, if any, are issued (with respect to Improvement Area #1) and as Assessments are collected (with respect to Improvement Area #2) in amount necessary to reimburse Whisper MC for the Actual Costs of the Authorized Improvements less any amounts already reimbursed to Whisper MC pursuant to the Acquisition and Reimbursement Agreements, as provided in Section 2.03(b).

(2) As soon as practical after the Effective Date and after the Appraisal required in Section 5.01(a) below, the City will approve one or more Assessment Ordinances which will include the Service and Assessment Plan. The City will thereby levy and collect the Assessment for the Authorized Improvements.

(3) After the Effective Date of the Original Agreement but prior to the

Effective Date of this Agreement, Whisper MC has caused the construction of a portion of the Authorized Improvements. After the Effective Date of this Agreement Whisper MC will complete the construction of the remaining portion of the Authorized Improvements.

(4) After adoption of the Assessment Ordinance(s), the City will begin collecting the Assessments on the Property. Upon collection of such Assessments, the City will place such Assessments in a designated account separate from the City's other accounts. As set forth in Section 2.03(b), the funds within the account will be used to reimburse Whisper MC for the Actual Costs of the Authorized Improvements pursuant to the terms of the Acquisition and Reimbursement Agreements and to pay debt service on PID Bonds, if any, and to pay such other costs associated with the PID Bond issuance.

(5) Subject to Force Majeure and any delays in obtaining City approvals and/ or permits, within 360 days of City acceptance of the Authorized Improvements, Whisper MC agrees to obtain site development and building permits for, and commence construction of, at least a 50,000 square foot speculative commercial building that meets the following minimum standards:

a. The building shall have a minimum of 35% glazing on all primary street facing facades and 20% on all secondary street facing facades.

b. A maximum of one row of parking (defined to include two sides of parking) shall be permitted between the street and the front of the building.

c. Decorative awnings shall be provided over pedestrian entrances.

d. All street facing facades shall be a minimum of 50% decorative masonry.

e. A landscape area of 15% shall be required and shall follow Section 6.1.1.4 of the City's Land Development Code.

f. No freestanding pole signs shall be permitted.

g. All utilities shall be underground (there shall be no overhead utilities).

h. Within ___ days of the Effective Date of this Agreement, Whisper MC shall cause fiscal surety in the amount of $250,000.00 and in the form of a letter of credit, performance bond or cash deposit (at Whisper MC's sole election) to be delivered to the City according to its usual Regulatory Requirements for such fiscal surety to secure completion of the commercial building. Such fiscal surety shall be released and returned to Whisper MC upon completion of the commercial building.

(6) Upon completion of the Authorized Improvements contemplated in the applicable Acquisition and Reimbursement Agreement and the City's receipt of a Bond Issuance

Request from Whisper MC, the City will issue the PID Bonds, subject to meeting the requirements and conditions stated herein and State law, to reimburse Whisper MC for Actual Costs of the Authorized Improvements allocated to Improvement Area #1, less any amounts already reimbursed to Whisper MC pursuant to the applicable Acquisition and Reimbursement Agreement. If Whisper MC does not make a Bond Issuance Request, the City shall, nevertheless collect Assessments and reimburse Whisper MC for Actual Costs of the Authorized Improvements pursuant to the applicable Acquisition and Reimbursement Agreements.

(b) To receive funds from the proceeds of the PID Bonds, if any, to pay the Actual Cost of the Authorized Improvements, Whisper MC shall deliver to the City (i) documentation evidencing the Actual Costs, (ii) documentation evidencing the acceptance of the Authorized Improvement by the City or Owners' execution of an easement granting the City and the public the right of access to and use of such Authorized Improvement (as set forth in the PDD Ordinance), and (iii) an assignment of the warranties and guaranties, if applicable, for such Authorized Improvement, in form reasonably acceptable to the City. Nothing herein shall prohibit Whisper MC from being reimbursed for design costs associated with an Authorized Improvement.

(c) At the time of the closing of any PID Bonds, Whisper MC shall, concurrently with the initial draw from the proceeds of the PID Bonds submit to the City a closing disbursement request to the City and the Trustee to be reimbursed for (i) the Unpaid Balance under the applicable Acquisition and Reimbursement Agreement (as such term is defined therein); and (ii) any other qualified and permitted costs approved by the City (collectively, the "**Owner Expended Funds**"). The total amount of Owner Expended Funds approved by the City pursuant to this Section shall be referred to herein as the "**Reimbursement Payment**." Prior to disbursement of proceeds of the PID Bonds, the City will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of the PID Bonds, Whisper MC shall be reimbursed an amount equal to the Reimbursement Payment and such amount shall be transferred to the Trustee for distribution to Whisper MC or Whisper MC's designee.

ARTICLE V. PID BONDS

Section 5.01. Issuance of PID Bonds

(a) Subject to the terms and conditions set forth in this Article V, the City intends to pay for the Authorized Improvements by either (i) reimbursing Whisper MC out of Assessments collected for Actual Costs of the applicable Authorized Improvements pursuant to an applicable Acquisition and Reimbursement Agreement, and/or (ii) by issuing PID Bonds. The City will use diligent, reasonable and good faith efforts, subject to meeting the requirements and conditions stated herein and State law, to issue an initial series of PID Bonds for all or a portion of the Authorized Improvements allocated to Improvement Area #1 on or before _____, 2020, and the completion of the applicable Authorized Improvements contemplated to be paid for by the PID Bonds to be issued, provided that Whisper MC can reasonably demonstrate to the City and its financial advisors that there is sufficient security for the PID Bonds, based upon the bond market conditions existing at the time of such proposed sale. The planning and documentation of

a PID Bond issuance shall begin upon delivery of a Bond Issuance Request. Prior to PID Bond issuance, Whisper MC shall provide an Appraisal to the City for the City's review and approval covering the portions of the Property that will be subject to the Assessments securing the PID Bonds, however such appraisal requirement may be waived by the City for any series of PID Bonds issued to refund an outstanding series of PID Bonds. The City shall select the appraiser, in consultation with Whisper MC and the Underwriter, and all reasonable fees of the Appraisal shall be paid by Whisper MC and shall be included in the Actual Costs.

(b) The aggregate principal amount of PID Bonds required to be issued hereunder shall not exceed an amount sufficient to fund: (i) the Actual Costs of the Authorized Improvements, (ii) required reserves and capitalized interest of not more than 12 months after the completion of construction of the applicable Authorized Improvements funded by the PID Bond issue in question; and (iii) any other District Formation and Bond Issuance Costs. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of any future PID Bond issuances.

(c) The final maturity for each series of PID Bonds shall occur no later than 30 years from the issuance date of said PID Bonds.

(d) As stated in Section 2.03(b) above, it is the current intent of Whisper MC to request one PID Bond issuance, with such bond issue permitted to include more than one series of PID Bonds as allocated to separate components of the Project, to provide the agreed upon reimbursements. However, Whisper MC retains the right to request the agreed upon reimbursements through additional PID Bond issues subject to the condition that the maximum amount of total indebtedness shall not exceed $14,630,000.

(e) Subject to the annual permitted increases allowed in Section 5.01(g) below, the initial Annual Installment equivalent ad valorem tax rate shall not exceed (i) $0.17 per $100 of assessed valuation for any single-family detached residential Parcels, and (ii) $0.22 per $100 of assessed valuation with respect to any other individual Parcel. In the event that an initial Annual Installment equivalent tax rate on any individual Parcel is determined upon subdivision of such Parcel to exceed $0.22 (subject to the annual permitted increases allowed in Section 5.01(g) below), then the Owner of such Parcel shall make a mandatory partial prepayment of the assessment in an amount sufficient to bring the equivalent tax rate for such Parcel to $0.22 or less before any subsequent Assessments for such Parcel are levied and collected. Assessments on any given portion of the Property may be adjusted in connection with subsequent PID Bond issues, as long as the maximum Annual Installment equivalent tax rate, as described in the foregoing sentence, is not exceeded, and the Assessments are determined in accordance with the Service and Assessment Plan. Assessments on any portion of the Property shall bear a direct proportionate relationship to the special benefit of the Authorized Improvements to that portion of the Property.

(f) The minimum value to lien ratio at the issuance date of each series of PID Bonds shall be (i) 3 to 1 on an overall basis considering all Parcels, and (ii) 2.5 to 1 with respect to any individual Parcel.

(g) The maximum annual permitted increase in Annual Installments shall be 2%.

(h) In addition to any other requirements of this Agreement, including but not limited to City Council approval, PID Bonds are not required to be issued under this Article V unless (i) the statutory requirements set forth in Chapter 372 of the Texas Local Government Code have been satisfied; (ii) the City receives at the time of issuance of such PID Bonds an opinion of counsel selected by the City stating in effect that the PID Bonds are legal and valid obligations under Texas law and that all preconditions to their issuance under State law have been satisfied; and (iii) the Attorney General of the State of Texas has issued an opinion approving issuance of the bonds as required by the PID Act and the PID Bonds have been registered by the Texas Comptroller.

(i) The City will deliver a certificate relating to any PID Bonds authorized by the City Council (such certificate being referred to herein as the "**Tax Certificate**") containing covenants and agreements designed to satisfy the requirements of the Tax Code related to the issuance of debt whose interest is exempt from Federal Income Taxation and the income tax regulations issued thereunder relating to the use of the proceeds of the PID Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or this Agreement or otherwise that may be deemed to be proceeds of the Bonds within the meaning of the Tax Code (collectively, "**Bond Proceeds**").

(j) The foregoing requirements apply to each series of PID Bonds, if any.

Section 5.02. Project Fund

The City hereby covenants and agrees that if PID Bonds are issued, the Indenture will establish a Project Fund (as defined in the Indenture) as a separate fund to be held by the Trustee under the Indenture. The portion of the proceeds of the PID Bonds issued to pay Actual Costs of Authorized Improvements allocated to Improvement Area #1 and Bond Issuance Costs shall be deposited upon issuance into separate accounts within the Project Fund.

Section 5.03. Denomination, Maturity, Interest, and Security for Bonds

(a) Each series of PID Bonds is subject to authorization by the City Council. If authorized, the PID Bonds shall be issued in the denominations, shall mature and be prepaid, shall bear interest, and shall be secured by and payable solely from the pledged revenues, all to be as described and provided in the applicable Indenture.

(b) The final and adopted versions of the PID Bond Ordinance and the Indenture (and all documents incorporated or approved therein) shall contain provisions relating to the withdrawal, application, and uses of the proceeds of the PID Bonds when and as issued and delivered and otherwise contain such terms and provisions as are mutually approved by the City and Whisper MC.

Section 5.04. Sale of PID Bonds

The PID Bonds, if issued by the City, may be marketed and sold through a negotiated or privately placed sale to an approved third party or parties with the cooperation and assistance of Whisper MC in all respects with respect to the preparation of marketing documents, such as preliminary and final official statements or in such other marketing and/or sales method mutually agreed upon by the City and Whisper MC.

Section 5.05. Named Authorized Improvements

The Authorized Improvements to be constructed and funded in connection with the PID Bonds are more particularly described on Exhibit "D" attached hereto.

Section 5.06. Assessments from Two or More Series of PID Bonds

If the total Assessments levied on a particular Parcel within the Project consist of Assessments associated with two or more different series of PID Bonds and an owner of an Assessed Property pays only a portion of the total Annual Installment due for such aggregate Assessments, then such payment will be allocated pro-rata based on the portion of the Annual Installment for each series of PID Bonds outstanding. For example, assume that a Parcel has Assessments totaling $20,000, $12,000 of which is for the first series of PID Bonds and $8,000 of which is for a second series of PID Bonds. Further assume that the Annual Installment for such Parcel is $1,000 which consists of a $550 Annual Installment from the first series of PID Bonds and a $450 Annual Installment from a second series of PID Bonds and an owner of an Assessed Property pays $600, then the $600 will be allocated as follows:

$360 (60% of $600) will go towards the Assessment for the first series of PID Bonds; and

$240 (40% of $600) will go towards the Assessment for the second series of PID Bonds

Total: $600

Section 5.07. Acquisition and Reimbursement Agreements

The costs of all Authorized Improvements will be financed through Acquisition and Reimbursement Agreements. As provided in Section 4.02 above, Whisper MC and the City will enter into one or more Acquisition and Reimbursement Agreements, which will provide for either PID Bonds or Assessments that will reimburse Whisper MC for Actual Costs incurred in connection with the Authorized Improvements in amount necessary to reimburse Whisper MC for the Actual Costs of the Authorized Improvements less any amounts already reimbursed to Whisper MC pursuant to the Acquisition and Reimbursement Agreements.

Section 5.08. Dissolution Upon Non-Issuance

Whisper MC or its Designated Successor and Assign shall petition the City to dissolve the District if the Authorized Improvements have not been completed within five (5) years from

the date that the City approves the first Assessment Ordinance for parcels within the District.

ARTICLE VI. REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION

Section 6.01. Representations and Warranties of City

The City makes the following covenant, representation and warranty for the benefit of the Owners:

The City is a political subdivision of the State of Texas, duly incorporated, organized and existing under the Constitution and general laws of the State, and has full legal right, power and authority under the PID Act and other applicable law (i) to enter into, execute and deliver this Agreement, (ii) to adopt the Assessment Ordinance, and (iii) to carry out and consummate the transactions contemplated by this Agreement.

Section 6.02. Covenants, Representation, and Warranties of Owners

The Owners make the following representations, warranties and covenants for the benefit of the City:

(a) The Owners represent and warrant that Whisper MC is a limited partnership duly organized and validly existing under the laws of the State of Texas, Yarrington Partners is a limited partnership duly organized and validly existing under the laws of the State of Texas, Whisper Industrial is a limited liability company duly organized and validly existing under the laws of the State of Texas, and 135 Residential is a limited liability company duly organized and validly existing under the laws of the State of Texas. The Owners further represent and warrant that the Owners are in compliance with the laws of the State of Texas, and have the power and authority to own their properties and assets and to carry on their business as now being conducted and as now contemplated.

(b) The Owners represent and warrant that the Owners have the power and authority to enter into this Agreement, and have taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Owners.

(c) The Owners represent and warrant that this Agreement is valid and enforceable obligation of the Owners and is enforceable against the Owners in accordance with its terms, subject to bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) The Owners covenant that once Whisper MC commences construction of a portion of the Authorized Improvements it will use its reasonable and diligent efforts to do all things which may be lawfully required of it in order to cause such portion of the Authorized Improvements of the Authorized Improvements to be completed in accordance with this Agreement.

(e) The Owners represent and warrant that (i) they will not request payment from the City for the acquisition of any public improvements that are not part of the Project, and (ii) they will diligently follow all procedures set forth in this Agreement with respect to Payment Requests.

(f) For a period of three (3) years after the final Acceptance Date of each applicable Authorized Improvement, the Owners covenant to maintain proper books of record and account for the Authorized Improvements and all costs related thereto. The Owners covenant that such accounting books will be maintained in accordance with sound accounting practices, and will be available for inspection by the City or its agent at any reasonable time during regular business hours upon at least 24 hours' notice.

(g) The Owners agree to provide the information required pursuant to the Owners Continuing Disclosure Agreement executed by the Owners in connection with the PID Bonds.

(h) The Owners covenant to provide, or cause to be provided, such facts and estimates as the City reasonably considers necessary to enable it to execute and deliver a Tax Certificate. The Owners further covenant that (i) such facts and estimates will be based on its reasonable expectations on the date of issuance of the PID Bonds and will be, to the best of the knowledge of the officers of the Owners providing such facts and estimates, true, correct and complete as of that date, and (ii) the Owners will make reasonable inquires to ensure such truth, correctness and completeness. The Owners covenant that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use or investment of the Bond Proceeds that would cause any of the covenants or agreements of the City contained in the Tax Certificate to be violated or that would otherwise have an adverse effect on the tax-exempt status of the interest payable on the PID Bonds for federal income tax purposes.

Section 6.03. Indemnification and Hold Harmless by Owners

THE OWNERS WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES, AND AGENTS (IN THIS SECTION, THE "**CITY**") AGAINST AND FROM, AND WILL PAY TO THE CITY, THE AMOUNT COLLECTIVELY OF, ALL ACTIONS, DAMAGES, CLAIMS, LOSSES, OR EXPENSE OF ANY TYPE, WHETHER OR NOT INVOLVING A THIRD-PARTY CLAIM (COLLECTIVELY, "**DAMAGES**"), ARISING DIRECTLY OR INDIRECTLY, FROM (i) THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE OWNERS; (ii) THE NEGLIGENT DESIGN, ENGINEERING, OR CONSTRUCTION BY THE OWNERS OF ANY AUTHORIZED IMPROVEMENT ACQUIRED BY THE CITY; OR (iii) THE OWNERS' NONPAYMENT UNDER CONTRACTS WITH THE OWNERS FOR ANY AUTHORIZED IMPROVEMENT UNDER THIS AGREEMENT. THE OWNERS WILL DEFEND THE CITY AGAINST ALL SUCH CLAIMS AND THE CITY WILL REASONABLY COOPERATE AND ASSIST IN PROVIDING SUCH DEFENSE. THIS SECTION SURVIVES THE TERMINATION OF THIS AGREEMENT INDEFINITELY, SUBJECT TO APPROPRIATE STATUTES OF LIMITATIONS, AS THEY MAY BE TOLLED OR EXTENDED BY AGREEMENT OR OPERATION OF LAW.

ARTICLE VII. DEFAULT AND REMEDIES

(a) A Party shall be deemed in default under this Agreement (which shall be deemed a breach hereunder) if such Party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

(b) Before any failure of any Party to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) days of the receipt of such notice (or five (5) days in the case of a monetary default), subject, however, in the case of non-monetary default, to the terms and provisions of subparagraph (c). Upon a breach of this Agreement, the non-defaulting Party in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained (and/or an action for mandamus as and if appropriate). Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Article VII or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any Party at law or in equity. Each of the Parties shall have the affirmative obligation to mitigate its damages in the event of a default by the other Party. Notwithstanding any provision contained herein to the contrary, the Owners shall not be required to construct any portion of the Authorized Improvements (or take any other action related to or in furtherance of same) while the City is in default under this Agreement.

(c) Notwithstanding any provision in this Agreement to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, widespread pestilence, fire or other casualty, shortage of materials, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or tornadoes, labor action, strikes, changes in the law affecting the obligations of the Parties hereunder, or similar acts), the time for such performance shall be extended by the amount of time of the delay directly caused by and relating to such uncontrolled circumstances. The Party claiming delay of performance as a result of any of the foregoing "force majeure" events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming Party becomes aware of the same, and if the claiming Party fails to so notify the other Party of the occurrence of a "force majeure" event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Article; however in no event shall a change in law which prohibits a party from fulfilling its obligations hereunder be considered a breach of this Agreement or defaults hereunder.

ARTICLE VIII. GENERAL PROVISIONS

Section 8.01. Notices

Any notice, communication, or disbursement required to be given or made hereunder shall be in writing and shall be given or made by facsimile, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as any be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent, and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

If to City: City of San Marcos
Attn: City Manager
630 East Hopkins
San Marcos, TX 78666
Facsimile: 512-396-2683

If to Owners: Whisper Master Community
Limited Partnership
9811 South IH 35
Building 3, Suite 100
Austin, Texas 78744

With a copy to: McLean & Howard, L.L.P.
Attn: Jeffrey S. Howard
Barton Oaks Plaza, Building II
901 South MoPac Expressway, Suite 225
Austin, Texas 78746
Facsimile: 512-328-2409

Section 8.02. Fee Arrangement/Administration of District

(a) The Owners agree that they will pay all of the City's costs and expenses (including the City's third party advisors and consultants) related to the creation and administration of the District, as well as costs and expenses relating to the development and review of the Service and Assessment Plan and this Agreement (including legal fees and financial advisory fees) ("**City PID Costs**"). Prior to closing of the PID Bonds, the City shall (i) submit to the Owners and the Trustee invoices and other supporting documentation evidencing the City PID Costs and (ii) direct the Trustee to pay these fees, as applicable, to the City or on behalf of the City from proceeds of the PID Bonds. In addition to any City PID Costs pursuant to the preceding sentences, all fees of legal counsel related to the issuance of the PID Bonds, including fees for the review of the District creation and District administration documentation,

the preparation of customary bond documents and the obtaining of Attorney General approval for the PID Bonds, will be paid at closing from proceeds of the PID Bonds. Further, the Owners agree that it will be responsible for paying the Annual Collection Costs.

(b) The City may enter into a separate agreement with an Administrator to administer the District upon adoption of the Service and Assessment Plan. The Annual Collection Costs shall be collected as part of and in the same manner as Annual Installments in the amounts set forth in the Service and Assessment Plan.

Section 8.03. Assignment

(a) Owners may, in their sole and absolute discretion, transfer or assign their respective rights or obligations under this Agreement with respect to all or part of the Project from time to time to an Affiliate without the consent of the City. Prior to the completion of the Authorized Improvements, however, Owners shall not transfer or assign its rights or obligations under this Agreement with respect to all or part of the Project to a non-affiliated entity without the prior consent of the City. After the completion of the Authorized Improvements, the Owners may transfer or assign their rights or obligations under this Agreement to any party without the City's consent. Owners shall provide the City thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, Owners shall be fully released from any and all future obligations under this Agreement and shall have no liability for such obligations with respect to this Agreement for the part of the Project so assigned.

(b) The City hereby acknowledges and agrees that Owners shall have the right to make a collateral assignment of any reimbursements and/or proceeds under this Agreement to any lender on the Project and the City shall execute any documentation reasonably requested by such lender evidencing such fact.

(c) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a sale or assignment to a "Designated Successor or Assign" (defined herein as (i) an entity to which an Owner assigns (in writing) its rights and obligations contained in this Agreement pursuant to this Section 8.03; (ii) any entity which is the successor by merger or otherwise to all or substantially all of such Owner's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of such Owner) unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

(d) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a Transfer.

Section 8.04. Construction of Certain Terms

For all purposes of this Agreement, except as otherwise expressly provided or unless the

context otherwise requires, the following rules of construction shall apply:

(a) Words importing a gender include either gender.

(b) Words importing the singular include the plural and vice versa.

(c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.

(d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.

(e) A reference to any Party includes, with respect to Owners, its Designated Successors and Assigns, and reference to any Party in a particular capacity excludes such Party in any other capacity or individually.

(f) All references in this Agreement to designated "Articles," "Sections," and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to "Exhibits" are to the designated Exhibits to this Agreement.

(g) The words "herein," "hereof," "hereto," "hereby," "hereunder," and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.

(h) The words "including" and "includes," and words of similar import, are deemed to be followed by the phrase "without limitation."

(i) Unless the context otherwise requires, a reference to the "Property," the "Authorized Improvements," or the "District" is deemed to be followed by the phrase "or a portion thereof."

(j) Every "request," "order," "demand," "direction," "application," "appointment," "notice," "statement," "certificate," "consent," "approval," "waiver," "identification," or similar action under this Agreement by any Party shall, unless the form of such instrument is specifically provided, be in writing duly signed by a duly authorized representative of such Party.

(k) The Parties hereto acknowledge that each such party and their respective counsel have participated in the drafting and revision of this Agreement. Accordingly, the Parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Agreement.

Section 8.05. Table of Contents; Titles and Headings

The titles of the articles and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 8.06. Amendments

This Agreement may be amended, modified, revised or changed by written instrument executed by the Parties and approved by the City Council.

Section 8.07. Time

In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

Section 8.08. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 8.09. Entire Agreement

This Agreement contains the entire agreement of the Parties.

Section 8.10. Severability; Waiver

If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 8.11. Owners as Independent Contractors

In performing under this Agreement, it is mutually understood that the Owners are acting as independent contractors, and not an agent of the City.

Section 8.12. Supplemental Agreements

Other agreements and details concerning the obligations of the Parties under and with

respect to this Agreement are/or will be included in the Service and Assessment Plan, the Assessment Ordinance, PID Bond Ordinance and/or Indenture. The Owners will provide any continuing disclosures required under the Indenture and will execute a separate agreement outlining Owners' continuing disclosure obligations, if required.

Section 8.13. City's Acceptance of Authorized Improvements

The City hereby agrees that it will not unreasonably withhold the final acceptance of any of the Authorized Improvements and will work with the Owners in good faith to expedite review and acceptance of such Authorized Improvements.

Section 8.14. Anti-Boycott Verification

Pursuant to Section 2271.002, Texas Government Code, the Owners hereby verify that the Owners, and any parent company, wholly- or majority-owned subsidiaries, and other affiliates of any of the Owners, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Owners understand "affiliate" to mean an entity that controls, is controlled by, or is under common control with any of the Owners and exists to make a profit.

Section 8.15. Iran, Sudan and Foreign Terrorist Organizations

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Owners represent that none of the Owners, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of any of the Owners is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

https://comptroller.texas.gov/purchasing/docs/sudan- list.pdf,
https://comptroller.texas.gov/purchasing/docs/iran-list.pdf, or
https://comptroller.texas.gov/purchasing/docs/fto-list.pdf.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes the Owners, and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Owners, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Owners understand "affiliate" to mean any entity that controls, is controlled by, or is under common

control with any of the Owners and exists to make a profit.

Section 8.16. Exhibits

The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit A	-	Definitions
Exhibit B	-	Property
Exhibit B-1	-	Whisper MC Property
Exhibit B-2	-	Yarrington Property
Exhibit B-3	-	Whisper Industrial Property
Exhibit B-4	-	135 Residential Property
Exhibit C	-	Draft of Service and Assessment Plan
Exhibit D	-	Authorized Improvements

[Signature Pages to Follow]

City of San Marcos, Texas

By: _____

Name: _____

Title: _____

[Signatures Continue on Next Page]

WHISPER MASTER COMMUNITY LIMITED PARTNERSHIP, a Texas limited partnership

By: Whisper M.C., LLC, a Texas limited liability company, Its General Partner

By: _____

Name: _____

Title: _____

YARRINGTON PARTNERS, LTD., a Texas limited partnership

By: Texas Realty/Retail Partners, Inc., a Texas corporation, Its General Partner

By: _____

Name: _____

Title: _____

By: 501 W. 15th, Inc., a Texas corporation, Its General Partner

By: _____

Name: _____

Title: _____

WHISPER INDUSTRIAL 2019 QOZB, LLC, a Texas limited liability company

By:_____
Name:_____
Title:_____

135 RESIDENTIAL DEVELOPMENT, LLC, a Texas limited liability company

By:_____
Name:_____
Title:_____

Exhibit "A"

[intentionally deleted]

Exhibit "B"

The Property

The "Property" as defined in the Agreement consists of four tracts:

(1) That certain approximately 442.966 acre tract, referred to as the "Whisper MC Property" in the Agreement, which is more particularly described in Exhibit "B-1" attached hereto;
(2) That certain approximately 115.686 acre tract, referred to as the "Yarrington Property" in the Agreement, which is more particularly described in Exhibit "B-2" attached hereto;
(3) That certain approximately 16.560 acre tract, referred to as the "Whisper Industrial Property" in the Agreement, which is more particularly described in Exhibit "B-3" attached hereto; and
(4) That certain approximately 130.641 acre tract, referred to as the "135 Residential Property" in the Agreement, which is more particularly described in Exhibit "B-4" attached hereto.

Exhibit "B-1"

The Whisper MC Property

The "Whisper MC Property" as defined in the Agreement consists of approximately 442.966 acres of land described as follows:

Exhibit "B-2"

The Yarrington Property

The "Yarrington Property" as defined in the Agreement consists of approximately 115.686 acres of land described as follows:

Exhibit "B-3"

The Whisper Industrial Property

The "Whisper Industrial Property" as defined in the Agreement consists of approximately 16.560 acres of land described as follows:

Exhibit "B-4"

The 135 Residential Property

The "135 Residential Property" as defined in the Agreement consists of approximately 130.641 acres of land described as follows:

Exhibit "C"

Draft of Service and Assessment Plan

[to be attached]

Exhibit "D"

Authorized Improvements

[to be attached]

File #: Res. 2020-89R, **Version:** 1

AGENDA CAPTION:
Consider approval of Resolution 2020-89R, approving an Interlocal Agreement with the City of Cedar Park, Texas, to enable each city to utilize vendors for goods and services under contracts procured by the other; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.

Meeting date: April 21, 2020

Department: Finance Department|Purchasing and Contracting - Lynda Williams, Purchasing Manager

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

Fiscal Note:

Prior Council Action: None

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

Choose an item.

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

The City is authorized by Local Government Code, Chapter 271, and by the "Interlocal Cooperation Act", Texas Government Code, Chapter 791, to participate in cooperative purchasing programs to increase efficiency and effectiveness of local government purchasing and contracting.

This interlocal agreement between the City of San Marcos and the City of Cedar Park, Texas would allow the two entities to use each other's existing contracts for goods and services.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

City Staff recommends approval of the interlocal agreement between the City of San Marcos and the City of Cedar Park, Texas.

220-188

INTERLOCAL PURCHASE AGREEMENT BETWEEN THE CITY OF CEDAR PARK, TEXAS AND THE CITY OF SAN MARCOS, TEXAS

This Interlocal Purchase Agreement (the "Agreement") is entered into by the City of Cedar Park, Texas and the City of San Marcos, Texas, acting by and through their respective signature authorities, pursuant to and under authority of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapter 271 of the Texas Local Government Code, for the purpose of participating in cooperative purchasing. The undersigned Local Governments may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

RECITALS:

WHEREAS, this Agreement is authorized by Chapter 791 of the Texas Government Code and Subchapter F, Chapter 271 of the Texas Local Government Code; and

WHEREAS, the Parties are local governments as that term is defined in Section 271.101(2) of the Texas Local Government Code; and

WHEREAS, Section 271.102 of the Texas Local Government Code authorizes local governments to participate in a cooperative purchasing program with another local government or local cooperative organization; and

WHEREAS, a local government that purchases materials, supplies, goods, services or equipment pursuant to a cooperative purchasing program with another local government satisfies the requirement of the local government to seek competitive bids for the purchase of the goods or services; and

WHEREAS, local governments in the State of Texas have the ability to realize substantial savings and economies of scale by cooperatively procuring materials, supplies, goods, services or equipment; and

WHEREAS, the Parties desire to enter into a cooperative purchasing program which will allow Parties to purchase materials, supplies, goods, services or equipment pursuant to Subchapter F, Chapter 271 of the Texas Local Government Code; and

WHEREAS, the Parties, acting by and through their respective signature authorities, adopt the foregoing premises as findings of said governing bodies.

NOW THEREFORE, in consideration of the mutual promises, inducements, covenants, agreements, conditions and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

ARTICLE I
PURPOSE

The purpose of this Agreement is to establish a cooperative purchasing program between the Parties which will allow the Parties to realize savings when purchasing materials, supplies, goods, services or

equipment, and which will facilitate the Parties' ability to satisfy state laws requiring the Parties to seek competitive bids for the purchase of goods and services. Each Party, in contracting for the purchase of supplies, materials, equipment, and services agrees, at its discretion, to extend contracts for shared use to the extent permitted by law and agreed upon by those parties and vendors.

ARTICLE II
TERM

The term of this Agreement shall commence on the date on which all Parties have executed this Agreement ("Effective Date"). This Agreement shall remain in full force and effect unless superseded by a supplemental agreement or terminated as provided in this Agreement.

ARTICLE III
TERMINATION

A Party may withdraw its participation from this Agreement by providing thirty (30) days prior written notice to the other Parties. However, termination of this Agreement by a Party shall not terminate an existing contract between a Party and a vendor.

ARTICLE IV
PURCHASING

Each Party shall designate a person to act on their behalf in all matters relating to the cooperative purchasing program. All purchases shall be effected by a purchase order from the purchasing party and directed to the vendor(s). The Parties shall make payments directly to vendors under the contracts made under Chapter 271, Subchapter F, Texas Local Government Code. The purchasing Party shall be responsible for the vendors' compliance with provisions relating to the quality of items and terms of delivery. The originating contracting Party is not responsible or liable for the performance of any vendor used by the purchasing Party as a result of this Agreement.

ARTICLE V
CURRENT REVENUE

The Parties warrant that all payments, expenditures, contributions, fees, costs, and disbursements, if any, required of it hereunder or required by any other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, addendum or associated document, shall be paid from current revenues available to the paying Party. The Parties hereby warrant that no debt is created by this Agreement and that any debt created through a purchase shall be the sole obligation of the purchasing Party and no obligation or liability for such debt shall be a liability or obligation of the other Parties.

ARTICLE VI
FISCAL FUNDING

The financial obligations of the Parties, if any, under this Agreement are contingent upon the availability and appropriation of sufficient funding. Any Party may withdraw from this Agreement without penalty in the event funds are not available or appropriated. However, no Party will be entitled to a refund of amounts previously contributed in the event of withdrawal for lack of funding.

ARTICLE VII
MISCELLANEOUS

A. **Notice**: Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, or by hand-delivery, facsimile transmission, or email transmission addressed to the respective Party at the address set forth opposite the signature of the Party.

B. **Amendment**: This Agreement may be amended by the mutual written agreement of the Parties.

C. **Severability**: In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

D. **Governing Law**: The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas. Venue for any action concerning this Agreement shall lie in Williamson County, Texas.

E. **No Waiver of Immunities**: Neither Party waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and the United States.

F. **Entire Agreement**: This Agreement represents the entire agreement among the Parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

G. **Recitals**: The recitals to this Agreement are incorporated herein.

H. **Counterparts**: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original constituting one and the same instrument.

I. **No Assignment**: The Parties may not assign or transfer their rights under this Agreement.

J. **Compliance with Law**: Each Party is responsible for complying with any additional or varying laws and regulations regarding purchases.

K. **No Waiver of Rights**: Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or equity to a Party, including the defense of sovereign immunity, nor to create any legal rights or claims on behalf of a person not a party to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED this _____ day of _____, 2020.

THE CITY OF SAN MARCOS, TEXAS

By: _____

Name: _____
Title: _____
Date Signed: _____
Address for Notice:
_____
_____
_____
Email address:_____

ATTEST:

By: _____
City Secretary

FOR CITY OF SAN MARCOS, APPROVED AS TO FORM:

By: _____
City Attorney

EXECUTED this 18th day of February, ~~2019~~ 2020.

CITY OF CEDAR PARK, TEXAS

By: Brenda Eivens

Name: Brenda Eivens
Title: City Manager
Date Signed: 2-18-2020
Address for Notice:
450 Cypress Creek Rd., Bldg 1.
Cedar Park, TX 78613

Email address: jp.lecompte@cedarparktexas.gov

ATTEST:

By: [illegible]
City Secretary

FOR CITY OF CEDAR PARK, APPROVED AS TO FORM:

By: Lauren Marfin, Asst. City Atty.
City Attorney

RESOLUTION NO. 2020- R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN INTERLOCAL AGREEMENT WITH THE CITY OF CEDAR PARK, TEXAS TO ENABLE EACH CITY TO UTILIZE VENDORS FOR GOODS AND SERVICES UNDER CONTRACTS PROCURED BY THE OTHER; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THIS AGREEMENT 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 attached Interlocal Agreement with the City of Cedar Park, Texas (the "Agreement") is approved.

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

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

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

File #: Ord. 2020-22, **Version:** 1

AGENDA CAPTION:

Consider approval of Ordinance 2020-22, on the first of two readings, reducing the speed limit from 30 miles per hour to 25 miles per hour along the 500 block of Harvey Street between North Street and Blanco Street; authorizing the installation of signs and traffic control devices reflecting the new speed limit; directing that the traffic register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the new speed limit; and including procedural provisions.

Meeting date: April - 21st, 2020 - 1st Reading

Department: Public Services (Tom Taggart)

Amount & Source of Funding

Funds Required: $300
Account Number: 10006147.53230
Funds Available: $38893
Account Name: Traffic-Signs

Fiscal Note:

Prior Council Action: N/A

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

N/A

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☒ Transportation - Safe, Well coordinated transportation system implemented in an environmentally sensitive manner

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*
Transportation Master Plan

Background Information:

Pursuant with Sec. 82.066, all regulatory signs where the authority to install is not specifically delegated to the traffic engineer, requires approval from City Council by ordinance.

The Public Services Department received a petition from residents on the 500 block of Harvey Street between North Street and Blanco Street to reduce the traffic speed from 30 mph to 25 mph. Along the roadway segment there are 19 physical addresses and the petition received 11 responses in support of a 25 mph speed limit change.

Harvey Street is a local residential street approximately 28 feet wide without sidewalk. The 85 th percentile speed is 24.9 mph.

State law allows the establishment of speed limits with 5 mph of the 85th percentile speed.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

City staff recommends approval of the 25 mph speed on 500 block of Harvey Street (from North Street to Blanco Street).

ORDINANCE NO. 2020 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS REDUCING THE SPEED LIMIT FROM 30 MILES PER HOUR TO 25 MILES PER HOUR ALONG THE 500 BLOCK OF HARVEY STREET BETWEEN NORTH STREET AND BLANCO STREET; AUTHORIZING THE INSTALLATION OF SIGNS AND TRAFFIC CONTROL DEVICES REFLECTING THE NEW SPEED LIMIT; DIRECTING THAT THE TRAFFIC REGISTER MAINTAINED UNDER SECTION 82.067 OF THE SAN MARCOS CITY CODE BE AMENDED TO REFLECT THE NEW SPEED LIMIT; AND INCLUDING PROCEDURAL PROVISIONS.

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

SECTION 1. Pursuant to Chapter 82 of the San Marcos City Code, and on the basis of finding that a decreased speed limit is reasonable and prudent, the speed limit along the 500 block of Harvey Street between North Street and Blanco Street is hereby decreased from 30 miles per hour to 25 miles per hour.

SECTION 2. The City's traffic engineer is authorized to install such signs and traffic control devices as he deems appropriate to reflect the new speed limit.

SECTION 3. The traffic engineer is directed to amend the traffic register maintained under section 82.067 of the San Marcos City Code to reflect the new speed limit.

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 shall be effective upon its adoption on second reading.

PASSED AND APPROVED on first reading April 21, 2020.

PASSED, APPROVED AND ADOPTED on second reading May 5, 2020.

Jane Hughson
Mayor

Attest:	Approved:
Tammy K. Cook Interim City Clerk	Michael Cosentino City Attorney

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

TRAFFIC CALMING PETITION

The City of San Marcos has received a request to install speed humps or rumble strips at the location described below. This survey serves to assess neighborhood/business consent of the proposed traffic calming measure. This survey will be used in conjunction with other City evaluations to assess the feasibility of this restriction or variation thereof. <u>The results of this survey do not guarantee the installation of the traffic calming measure.</u>

Street Name *(for Restriction:)* Harvey Street *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: Reduce Speed limit to 25 mph *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Michele Donnelly		524 Harvey St SM TX 78666	5127878324	✓		
Adam Landry	City of San Marcos	533 Harvey St. SM, TX 78666	512-665-2633	✓		
Laura Brackney		533 Harvey St. SM, TX 78666	281-844-5304	✓		
Jarett Bostick	Greyskull Productions	539 Harvey St. SM TX 78666	512.468.7580	✓		
GARY ALLEN		539 Harvey St	512-787-6446	✓		
ANA RILEY	TX STATE UNIVERSITY	539 HARVEY ST	512-826-0916	✓		
Anna Hadaza Gonzalez	Sacred Earth Acupuncture	539 Harvey ST SM. TX 78666	512 644 8370	✓		

Community Contact: Seann Welch Address: 529 Harvey Phone: 5124709198

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

TRAFFIC CALMING PETITION

The City of San Marcos has received a request to install speed humps or rumble strips at the location described below. This survey serves to assess neighborhood/business consent of the proposed traffic calming measure. This survey will be used in conjunction with other City evaluations to assess the feasibility of this restriction or variation thereof. The results of this survey do not guarantee the installation of the traffic calming measure.

Street Name *(for Restriction:)* Harvey Street *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: Reduce Speed Limit to 25mph *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Tobias Mansner	TX State University	539 Harvey st apt 3	917-552-1485	✓		Tobias Mansner
Marco Gutierrez	San Marcos Resident	533 Harvey St	956 290 3139	✓		
William Buckley		516 Harvey St	830-387-6836	✓		
Jessi Newton		516 Harvey St	512-644-0752	✓		
Sandra Moreno		514 Harvey St	512-398-3338	✓		
Robyn Herry		503 Harvey St	512 857 5716	✓		
MICHAEL PAYNTER		503 HARVEY ST	512-392-6796	✓		
Alexander VanKeuren		517 Harvey St	281-785-9760	✓		

Community Contact: Sean Welch Address: 529 Harvey Phone: 5124709198

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

TRAFFIC CALMING PETITION

The City of San Marcos has received a request to install speed humps or rumble strips at the location described below. This survey serves to assess neighborhood/business consent of the proposed traffic calming measure. This survey will be used in conjunction with other City evaluations to assess the feasibility of this restriction or variation thereof. The results of this survey do not guarantee the installation of the traffic calming measure.

Street Name *(for Restriction:)* Harvey Street *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: Reduce speed limit to 25mph *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Triston Robinson		912 Harvey st	830 481 8736	Y		Triston Robinson
Taylor Thurmon		510 Harvey St Unit B.	512-554-1940	Y		[illegible]
Jessica Thurmon		510 Harvey St. Unit B	361-947-1720	Y		[illegible]
Wyatt Ince		510 Harvey St. Unit A	817 715-5914	Y		[illegible]
Rachel Elliott		510 Harvey St, unit A	903-915-9669	Y		Rachel Elliott
Nathan Gober		513 Harvey St	210-926-4009	Y		Nathan Gober
David Donnelly		524 Harvey St.	512-787-1388	Y		[illegible]
Sean Welch		529 Harvey St	512 470 9198	Y		[illegible]

Community Contact: Sean Welch Address: 529 Harvey Phone: 9124709198

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

Speed Limit Change to 25 mph Petition
500 Block of Harvey St.

File #: Ord. 2020-23, **Version:** 1

AGENDA CAPTION:
Consider approval of Ordinance 2020-23, on the first of two readings, establishing a no parking / tow-away zone on the southside of a city easement located at 708 Peques Street pursuant to Section 82.066 of the San Marcos City Code; authorizing the installation of signage reflecting the no parking / tow-away zone; directing that the Traffic Register maintained under Section 82.067 of the San Marcos City Code be amended to reflect the no parking / tow-away zone; and including procedural provisions.

Meeting date: April - 21st, 2020 - 1st Reading
May 5th, 2020- 2nd Reading

Department: Public Services - Transportation Division (Sabas Avila)

Amount & Source of Funding
Funds Required: $300
Account Number: 10006147.53230
Funds Available: $38893
Account Name: Traffic-Signs

Fiscal Note:

Prior Council Action: N/A

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

N/A

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☒ Transportation - Safe, Well coordinated transportation system implemented in an environmentally sensitive

manner

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Transportation Master Plan

Background Information:

Pursuant to Section 82.066 of the City Code, all regulatory traffic signs where the authority to install the signage is not specifically delegated to the traffic engineer, requires approval from City Council by ordinance.

The city traffic engineer received a request from city staff that a no-parking tow-away zone be created on the southside of a city easement located at 708 Peques Street. The easement is continuously encroached by commuter parking, which results in a hazardous work environment for city employees who need to access the Spring Town Lake water tower.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

City staff recommends approval of installing No-Parking Tow-away zone on the south side of city easement located at 708 Peques Street.

Pursuant with 82.067- The traffic engineer shall develop and maintain a traffic register containing a record of every location in the city where any traffic control device or special regulation is made applicable, whether by ordinance or by the traffic engineer's authority established under this chapter.

ORDINANCE NO. 2020-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ESTABLISHING A NO PARKING / TOW-AWAY ZONE ON THE SOUTHSIDE OF A CITY EASEMENT LOCATED AT 708 PEQUES STREET PURSUANT TO SECTION 82.066 OF THE CITY CODE; AUTHORIZING THE INSTALLATION OF SIGNAGE REFLECTING THE NO PARKING / TOW-AWAY ZONE; DIRECTING THAT THE TRAFFIC REGISTER MAINTAINED UNDER SECTION 82.067 OF THE SAN MARCOS CITY CODE BE AMENDED TO REFLECT THE NO PARKING / TOW-AWAY ZONE; AND INCLUDING PROCEDURAL PROVISIONS.

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

SECTION 1. Pursuant to Chapter 82 of the San Marcos City Code, and on the basis of finding that a no parking / tow-away zone on the southside of a city easement located at 708 Peques Street is reasonable and prudent in order to avoid a hazardous condition for city employees, such no parking / tow-away zone as depicted on the map attached hereto and incorporated as Exhibit A is hereby established.

SECTION 2. The City's traffic engineer is authorized to install any signage he deems appropriate to reflect the new no parking / tow-away zone.

SECTION 3. The traffic engineer is directed to amend the traffic register maintained under section 82.067 of the San Marcos City Code to reflect the no parking / tow-away zone.

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 shall be effective upon its adoption on second reading.

PASSED AND APPROVED on first reading April 21, 2020.

PASSED, APPROVED AND ADOPTED on second reading May 5, 2020.

Jane Hughson
Mayor

Attest:	Approved:
Tammy K. Cook Interim City Clerk	Michael Cosentino City Attorney

No-Parking Tow-Away
No-Parking Tow-Away
Peques St
Peques St

File #: Ord. 2020-24, **Version:** 1

AGENDA CAPTION:
Consider approval of Ordinance 2020-24, on the first of two readings, amending the traffic register maintained pursuant to section 82.067 of the City Code by decreasing the speed limit in the 1300 through 1500 blocks of Belvin Street (between Bishop Street to Dixon Street) from 30 miles per hour to 25 miles per hour in both directions and authorizing the installation of speed cushions; and including procedural provisions.

Meeting date: April - 21st, 2020 - 1st Reading

Department: Public Services Department (Tom Taggart)

Amount & Source of Funding
Funds Required: $9,000
Account Number: 10006150.53010
Funds Available: $663,110
Account Name: Streets-Asphalt

Fiscal Note:

Prior Council Action: N/A

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

N/A

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☒ Transportation - Safe, Well coordinated transportation system implemented in an environmentally sensitive manner

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Transportation Master Plan

Background Information:

Pursuant to Section 82.066 of the City Code, all regulatory traffic signs and devices, where the authority to install is not specifically delegated to the traffic engineer, requires approval from City Council by ordinance.

The Public Services Department received a petition from residents on Belvin Street seeking to have speed humps installed between Bishop Street and Dixon Street. Thirty-one property owners reside along Belvin Street in this segment. Of the 31 property owners, the petition contained 24 responses. Among the 24 responses, 23 were supportive of the speed hump installation and one property owner was opposed.

Based on a speed study conducted February 25 through March 3, 2020, the average eighty-fifth percentile speed on Belvin Street is 30.1 mph.

If approved, the Transportation Division of the Public Services Department will install speed cushions. Speed cushions are similar to speed humps except speed cushions maintain a gap in the middle of humps to allow emergency management vehicles to straddle the humps so as to not adversely impact response times.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

With the Hopkins Street Reconstruction Project approaching, the speed cushions will serve as a traffic calming measure for any cut-through traffic that may attempt to avoid the project and the City's official detour plan and travel on Belvin Street. In order to maintain roadway safety, City staff recommends the approval of installing speed cushions on the 1300-1500 block of Belvin Street (between Bishop Street and Dixon Street).

ORDINANCE NO. 2020-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING THE TRAFFIC REGISTER MAINTAINED PURSUANT TO SECTION 82.067 OF THE CITY CODE BY DECREASING THE SPEED LIMIT IN THE 1300 THROUGH 1500 BLOCKS OF BELVIN STREET (BETWEEN BISHOP STREET TO DIXON STREET) FROM 30 MILES PER HOUR TO 25 MILES PER HOUR IN BOTH DIRECTIONS AND AUTHORIZING THE INSTALLATION OF SPEED CUSHIONS; AND INCLUDING PROCEDURAL PROVISIONS.

RECITALS:

1. Belvin Street is a two-way residential street located in the Belvin Street Historic District of the City. A traffic study conducted between February 25, 2020 and March 3, 2020 indicated that the 85th percentile speed in the 1300 to 1500 blocks of Belvin Street (between Bishop Street to Dixon Street) to be 30.1 miles per hour.

2. Such traffic conditions are not safe for residents and residents have petitioned the City to impose traffic regulations and devices in the 1300 through 1500 blocks of Belvin Street (between Bishop Street to Dixon Street) in order to improve public safety.

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

SECTION 1. The Recitals are hereby found to be true and correct and are adopted as the findings of the City Council.

SECTION 2. Pursuant to Section 82.066 of the San Marcos Code, and on the basis of the findings stated, the City Council hereby authorizes decreasing the speed limit from 30 miles per hour to 25 miles per hour in the 1300 through 1500 blocks of Belvin Street (from Bishop Street to Dixon Street) in both directions and the installation of speed cushions.

SECTION 3. The installation of signs providing notice of the speed limit and the presence of the speed cushions is also hereby authorized.

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 shall be effective upon its adoption on second reading.

PASSED AND APPROVED on first reading on April 21, 2020.

PASSED, APPROVED AND ADOPTED on second reading on May 5, 2020.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael Cosentino
City Attorney

1508

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

25 MPH PETITION

The City of San Marcos has received a request to install speed humps or rumble strips at the location described below. This survey serves to assess neighborhood/business consent of the proposed traffic calming measure. This survey will be used in conjunction with other City evaluations to assess the feasibility of this restriction or variation thereof. The results of this survey do not guarantee the installation of the traffic calming measure.

Street Name *(for Restriction:)* 1300 - 1500 Belvin St. *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: 25 MPH Speed Limit *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Alex von Rosenberg		1339 Belvin		✓		
Landon Waddle		1337 Belvin		✓		
Adrian Lyle		1335 Belvin	830.237.2520	✓		
Epi Lozano		1321 Belvin	512 665 4777	✓		
Roland Denner		1316 Belvin	512-396-0430	✓		
Martha Christ		1404 Belvin	512.893.0033	✓		
Norma Gaona		1412 Belvin	512-557-1953	✓		

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

25 MPH PETITION

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Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: 25 MPH Speed Limit *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
David Garcia		1412 Belvin St	512-557-1953	✓		
Esther Henk	KW Realty	1528 Belvin St	512-757-1994	✓		
Casidy Henk	Tejas Equipment	1528 Belvin St	512-738-3353	✓		
Zakra Jaramos		1532 Belvin St	512-655-4061	✓		
Brea Carrillo		1400 Belvin St.	512-738-1164	✓		
Mario Amaya		1531 Belvin st	512 7386910	✓		
Nancy Hernandez		1508 Belvin st	512-618-8958	✓		

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

25 MPH PETITION

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Suggested Traffic Calming Measure: 25 MPH Speed Limit *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Manuel Vielma		1540 Belvin St.	(512)667-3159	✓		Manuel Vielma
Arturo Cervantez		1333 Belvin St	5128787483	✓		Arturo Cervantez
Margie Cervantez		1333 Belvin St.	5128787483	✓		M Cervantez
Maricela Vielma		1540 Belvin St.	512 667-3084	✓		Maricela Vielma
Rose C. Wirtz		1334 Belvin St.	210-189-4527	✓		Rose C. Wirtz
Jaime Cervantez		1334 Belvin St.		✓		Jaime Cervantez
Richard Contreras		1533/1537 Belvin St	(512) 779-7789	✓		Richard Contreras

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

25 MPH PETITION

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Street Name *(for Restriction:)* 1300 - 1500 Belvin St. *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: 25 MPH Speed Limit *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Cathy Curranco		1400 Belvin St.	512-396-3240	✓		Cathy Curranco
Mary Renteria		1315 Belvin st.	512-396-5187	—		Mary Renteria
Gera Walker		1544 Belvin Street	(512)738-5874	✓		Belvin water

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

TRAFFIC CALMING PETITION

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Street Name *(for Restriction:)* 1300 - 1500 Belvin St. *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* Belvin St *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: 25 MPH *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Ben Harrison		1327 Belvin St	512-644-8866	X		Ben Harrison
Felix Pacheco		1501 Belvin St	[illegible]	X		[illegible]
Angela Perez		1536 Belvin St.	512-783-8811	X		[illegible]

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

1300 – 1500 Belvin Street Traffic Calming Survey

Dear Resident/Property Owner,

Residents from the neighborhood have requested the following traffic calming measure between the 1300-1500 Block of Belvin St.,

1. **Reduce the speed limit from 30 mph to 25 mph.**
2. **Install speed humps.**

Your input is valuable to help City Council to make decisions. We kindly suggest you to fill in the response form below and send it back to:

City of San Marcos

Public Services Dept./Transportation

630 E Hopkins, San Marcos, TX 78666

You can also email your response to: Transportationinfo@sanmarcostx.gov

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1300 – 1500 Belvin Street Traffic Calming Survey

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630 E Hopkins, San Marcos, TX 78666

You can also email your response to: Transportationinfo@sanmarcostx.gov

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Zou, Ning

From: Elly Del Prado Dietz <elly@delpradodietz.com>
Sent: Monday, March 2, 2020 8:46 PM
To: Public Works Information
Subject: [EXTERNAL] Belvin Street

I believe all of Belvin Street should have 25 mph limit and speed humps.

Elly Del Prado Dietz
Del Prado Dietz, PLLC

CAUTION: This email is from an EXTERNAL source. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious .

1531 Belvin Street

1300 – 1500 Belvin Street Traffic Calming Survey

Dear Resident/Property Owner,

Residents from the neighborhood have requested the following traffic calming measure between the 1300-1500 Block of Belvin St.,

1. **Reduce the speed limit from 30 mph to 25 mph.**
2. **Install speed humps.**

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City of San Marcos

Public Services Dept./Transportation

630 E Hopkins, San Marcos, TX 78666

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1300 – 1500 Belvin Street Traffic Calming Survey

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Your input is valuable to help City Council to make decisions. We kindly suggest you to fill in the response form below and send it back to:

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1300 – 1500 Belvin Street Traffic Calming Survey

Dear Resident/Property Owner,

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1. **Reduce the speed limit from 30 mph to 25 mph.**
2. **Install speed humps.**

Your input is valuable to help City Council to make decisions. We kindly suggest you to fill in the response form below and send it back to:

City of San Marcos

Public Services Dept./Transportation

630 E Hopkins, San Marcos, TX 78666

You can also email your response to: Transportationinfo@sanmarcostx.gov

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Speed Limit Change to 25 mph Petition
1300 to 1500 Block of Belvin St.

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

TRAFFIC CALMING SURVEY

The City of San Marcos has received a request to install speed humps or rumble strips at the location described below. This survey serves to assess neighborhood/business consent of the proposed traffic calming measure. This survey will be used in conjunction with other City evaluations to assess the feasibility of this restriction or variation thereof. The results of this survey do not guarantee the installation of the traffic calming measure.

Street Name *(for Restriction:)* Belvin St. *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* 1300 – 1500 *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: Speed Humps *(e.g. speed humps, rumble strips, diverter, etc.)*

no 1534 G.S. N.R

NAME *(print)*	COMPANY	ADDRESS N.R	PHONE NUMBER	APPROVE Speed Humps *(check one)* YES	NO	SIGNATURE
Zera James		1532 Belvin St.	(512)395-5671	✓		Zera James
need 25mph Ana Cruz		1531 Belvin st.	512 749 6902	✓		
Epi Lozano		1321 Belvin	512-665-4777	✓		

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation

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

SPEED HUMP PETITION

The City of San Marcos has received a request to install speed humps or rumble strips at the location described below. This survey serves to assess neighborhood/business consent of the proposed traffic calming measure. This survey will be used in conjunction with other City evaluations to assess the feasibility of this restriction or variation thereof. The results of this survey do not guarantee the installation of the traffic calming measure.

Street Name *(for Restriction:)* 1300 - 1500 Belvin St. *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* Belvin St *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: Speed hump *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE 25 MPH signs *(check one)* YES	NO	SIGNATURE
Ben Harrison		1327 Belvin St.	512-644-8866	X		Ben Harrison
[illegible]		1501 [illegible] St	512-[illegible]	X		[illegible]
[illegible] Pacheco						
Angela Perez		1536 Belvin St.	512-787-8811	X		[illegible]

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

TRAFFIC CALMING PETITION

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Street Name *(for Restriction:)* 1300-1500 Belvin St. *(e.g. N. LBJ Drive)*
Block No.(s) *(for Restriction:)* _____ *(e.g. 500 block, 100 – 300 block, etc.)*
Suggested Traffic Calming Measure: Speed Humps *(e.g. speed humps, rumble strips, diverter, etc.)*

SPEED HUMP

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE ~~25 MPH signs~~ *(check one)* YES	NO	SPEED HUMP SIGNATURE
Manuel Vielma		1540 Belvin St. San Marcos	(512) 667-3159	✓		Manuel Vielma
Maricela Vielma		1540 Belvin st.	(512)667-3084	✓		Maricela Vielma
Arturo Cervantez		1333 Belvin St.	512 8787483	✓		Arturo Cervantez
Maggie Cervantez		1333 Belvin St.	5128787483	✓		Maggie Cervantez
Rose C. Watz		1334 Belvin St.	(210)789-6527	✓		Rose Watz
Jaime Cervantez		1334 Belvin St.		✓		Jaime Cervantez
Richard Contreras		1533/1537 Belvin St	(512)779-7789			Richard Contreras

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

SPEED Hump
~~TRAFFIC CALMING~~ PETITION

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Suggested Traffic Calming Measure: speed Humps *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE ~~25 MPH signs~~ *(check one)* YES	NO	SIGNATURE
Amy Currango		1400 Belvin St.	512-396-3240	✓		Amy Currango
Mary Renteria		1315 Belvin St.	512-396-5187	✓		Mary Renteria
Maricela Vielma		1540 Belvin St.	(512) 667-3084	✓		Maricela Vielma
Manuel Vielma		1540 Belvin St.	(512) 667-3084	✓		Manuel Vielma
Geri Walker		1544 Belvin Street	(512) 738-5874	✓		[illegible]

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation
512-393-8135

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

TRAFFIC CALMING SURVEY

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Suggested Traffic Calming Measure: Speed Humps *(e.g. speed humps, rumble strips, diverter, etc.)*

NAME *(print)*	COMPANY	ADDRESS	PHONE NUMBER	APPROVE Speed Humps *(check one)* YES	NO	SIGNATURE
Kay Banning		1316 Belvin St.	512-396-0430	✓		Kay Banning
Alice M Rosenberg		1339 Belvin		✓		Alice M Rosenberg
Elias Urquiza		1337 Belvin		✓		Elias Urquiza
Mary Hay		1508 Belvin St.	512-618-8458	✓		Mary Hay
Casidy Henk		1528 Belvin	512-738-3353	✓		Casidy Henk
Esther Henk	Kw Realty	1528 Belvin	512-787-2889	✓		E Henk
Victor Perez	Smcisd	1509 Belvin St	512-644-1538	✓		Victor Perez

Community Contact: _____ Address: _____ Phone: _____

Please Return to: Cris Gonzalez
City of San Marcos, Public Services – Transportation

1300 – 1500 Belvin Street Traffic Calming Survey

Dear Resident/Property Owner,

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1. **Reduce the speed limit from 30 mph to 25 mph.**
2. **Install speed humps.**

Your input is valuable to help City Council to make decisions. We kindly suggest you to fill in the response form below and send it back to:

City of San Marcos

Public Services Dept./Transportation

630 E Hopkins, San Marcos, TX 78666

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Zou, Ning

From: Elly Del Prado Dietz <elly@delpradodietz.com>
Sent: Monday, March 2, 2020 8:46 PM
To: Public Works Information
Subject: [EXTERNAL] Belvin Street

I believe all of Belvin Street should have 25 mph limit and speed humps.

Elly Del Prado Dietz
Del Prado Dietz, PLLC

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1531 Belvin Street

1300 – 1500 Belvin Street Traffic Calming Survey

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630 E Hopkins, San Marcos, TX 78666

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Installation of Speed Hump Petition
1300 to 1500 Block of Belvin St.

City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Legislation Text

File #: Ord. 2020-25, **Version:** 1

AGENDA CAPTION:
Consider approval of Ordinance 2020-25 amending the city's 2019-2020 fiscal year budget to allocate $50,000.00 from each of the special services budgets of the city's general fund, electric fund, and water and wastewater fund for a total amount of up to $150,000.00 to pay for various activities in response to the COVID-19 pandemic; providing for the adoption of this ordinance on only one reading as an emergency measure; and declaring an effective date.

Meeting date: April 21, 2020

Department: Finance

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

Fiscal Note:

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

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

Choose an item.

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

During the April 7th meeting, Council directed staff to create funding source for COVID-related expenses. In response, staff is proposing to take $50,000 from the Special Services line items in each of the three major funds: General, Electric and Water/Wastewater for a total of $150,000.

This funding could be used to acquire COVID-19 test kits that could be used to supplement the supply being used by our local testing facilities. It is important to note that any expenditure not directly related to the operation of the local government may not qualify for reimbursement. As such, staff recommends we spend funds on test kits that would be used to augment public testing only when the normal testing capacity is at risk of overrun. We are closely monitoring the capacity of the local medical industry to conduct the testing, and they are currently operating below maximum capacity.o enter text.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Click or tap here to enter text.

ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING THE CITY'S 2019-2020 FISCAL YEAR BUDGET TO ALLOCATE $50,000.00 FROM EACH OF THE SPECIAL SERVICES BUDGETS OF THE CITY'S GENERAL FUND, ELECTRIC FUND, AND WATER AND WASTEWATER FUND FOR A TOTAL AMOUNT OF UP TO $150,000.00 TO PAY FOR VARIOUS ACTIVITIES IN RESPONSE TO THE COVID-19 PANDEMIC; PROVIDING FOR THE ADOPTION OF THIS ORDINANCE ON ONLY ONE READING AS AN EMERGENCY MEASURE; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

In accordance with Section 8.16 of the City Charter, the City Council declares that a public necessity exists that requires an amendment to the City's 2019-2020 Fiscal Year Budget.

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

SECTION 1. The City's Budget Ordinance for the 2019-2020 Fiscal Year is amended as set forth in the attached Exhibit A, to allocate $50,000.00 from each of the special services budgets of the City's General Fund, Electric Fund, and Water and Wastewater Fund for a total amount of up to $150,000.00 to pay for various activities in response to the COVID-19 pandemic.

SECTION 2. These revisions will be incorporated into the 2019-2020 Fiscal Year City Budget.

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

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

SECTION 5. The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings are waived, and this ordinance will take effect upon adoption with only one reading.

PASSED, APPROVED AND ADOPTED as an emergency measure on only one reading on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

Approved:

Michael J. Cosentino
City Attorney

EXHIBIT A

Budget Amendment

Approved by Ordinance No

Description	Fund Account	Account Number/Name	Current Budget Balance	Total Amendment	Amended Budget Balance
General Fund	10001280	54375/ Contingency	$50,000	($50,000)	0
Electric Fund	21006322	54375/ Contingency	$50,000	($50,000)	0
Water/WW	22006335	54375/ Contingency	$50,000	($50,000)	0
General Fund/Special Services Department	10001280	54374/ COVID 19 Reserve	0	$150,000	$150,000

File #: Res. 2020-90R, **Version:** 1

AGENDA CAPTION:
Consider approval of Resolution 2020-90R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 9.61 acres out of the Edward Burleson Survey No. 18, Abstract No. 63, Hays County, generally located in the 400 Block of Centerpoint Road; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

Meeting date: April 21, 2020

Department: Planning and Development Services

Amount & Source of Funding
Funds Required: n/a
Account Number: n/a
Funds Available: n/a
Account Name: n/a

Fiscal Note:

Prior Council Action: n/a

City Council Strategic Initiative: n/a

Comprehensive Plan Element (s):

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☒ Land Use - Direct Growth, Compatible with Surrounding Uses

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: n/a

Choose an item.

Background Information:

This is a request for a voluntary annexation submitted by Benjamin Green on behalf of Outlet West Investors Limited for approximately 9.610 +/- acres of land out of the Edward Burleson Survey No. 18, Abstract No. 63, Hays County, generally located generally located in the 400 Block of Centerpoint Road.

The City of San Marcos will provide water and wastewater services at the site. The developer will be responsible for extending water and wastewater facilities through the site. Pedernales Electric will provide electric service for this development.

The City of San Marcos will provide Police, Fire, and EMS services to the site.

Below is a proposed schedule for this annexation, which complies with the Texas Local Government Code requirements:

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** April 21, 2020 (Today)
- **City Council Ordinance 1st Reading (Public Hearing):** May 19, 2020
- **City Council Ordinance 2nd Reading:** June 2, 2020

Council Committee, Board/Commission Action:

n/a

Alternatives:

n/a

Recommendation:

n/a

RESOLUTION NO. 2020-90R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN AGREEMENT FOR THE PROVISION OF SERVICES IN CONNECTION WITH THE PROPOSED OWNER REQUESTED ANNEXATION OF APPROXIMATELY 9.61 ACRES OF LAND GENERALLY LOCATED IN THE 400 BLOCK OF CENTERPOINT ROAD; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY; SETTING A DATE FOR A PUBLIC HEARING CONCERNING THE PROPOSED ANNEXATION OF SAID TRACT OF LAND; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached Agreement for the Provision of Services is hereby approved.

PART 2. The City Manager, or his designee, is authorized to execute said Agreement on behalf of the City.

PART 3. The date for the public hearing concerning the proposed annexation of the land described in said Agreement shall be May 19, 2020.

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

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

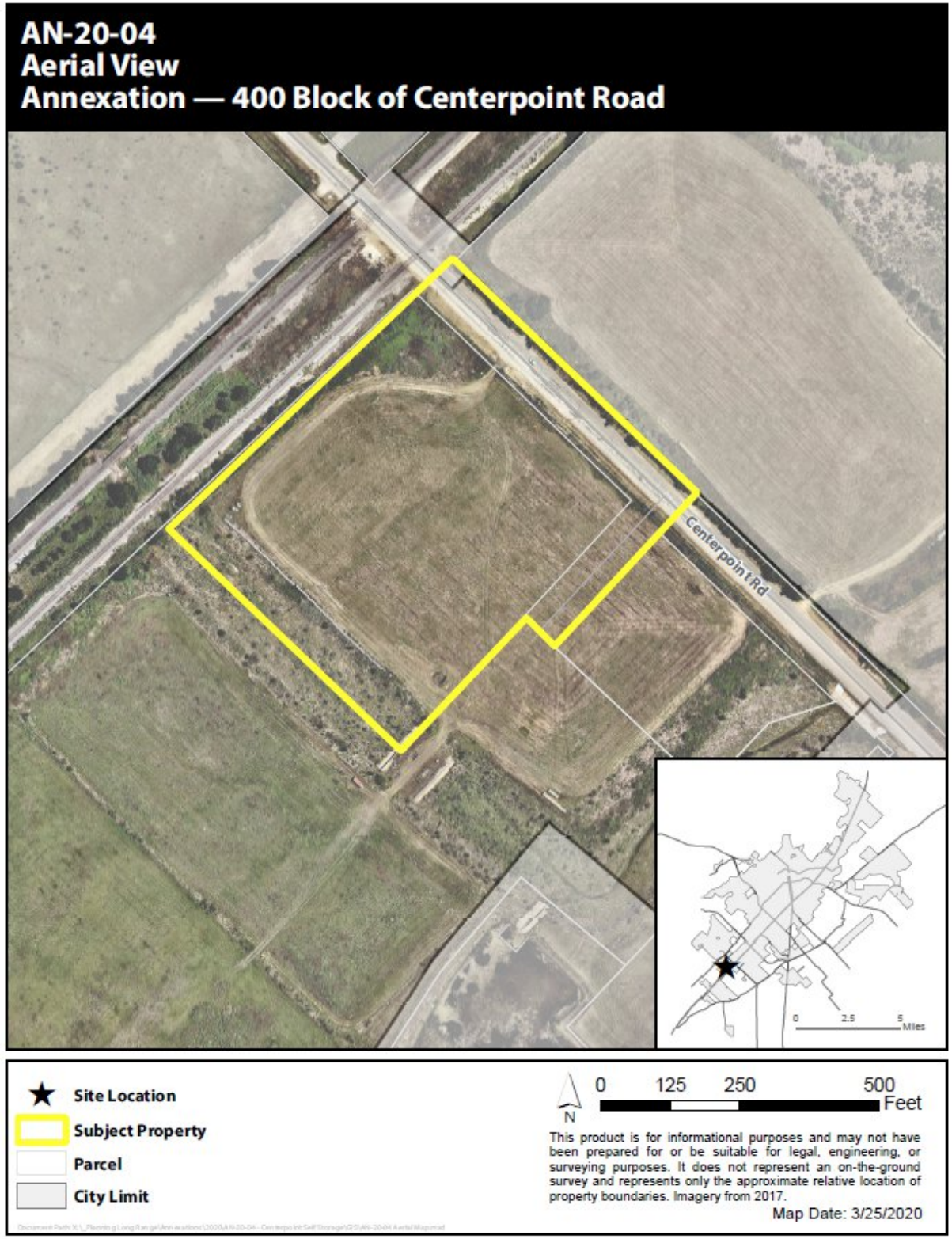
AN-20-04 (Centerpoint Annexation)

Consider approval of Resolution 2020-XXR, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 9.610 +/- acres out of the Edward Burleson Survey No. 18, Abstract No. 63, Hays County, generally located generally located in the 400 Block of Centerpoint Road; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

SAN MARCOS

Context:

- 400 Block of Centerpoint Road
- 9.610 acres
- Applicant proposes to develop property as self-storage
- Requesting Heavy Commercial (HC) Zoning concurrently with annexation request
- Service Plan (Attachment)



Annexation & Zoning Schedules:

**This schedule reflects the new annexation schedule per Texas House Bill 347*

Annexation Schedule

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** April 21, 2020 *(Today)*
- **City Council Ordinance 1st Reading (Public Hearing):** May 19, 2020
- **City Council Ordinance 2nd Reading:** June 2, 2020

Zoning Schedule

- **Planning and Zoning Commission (Public Hearing):** April 28, 2020
- **City Council Ordinance 1st Reading (Public Hearing):** May 19, 2020
- **City Council Ordinance 2nd Reading:** June 2, 2020

AGREEMENT FOR THE PROVISION OF SERVICES
(Pursuant to Tex. Local Gov't Code §43.0672)

Date: April 21, 2020

Owner: OUTLET WEST INVESTORS LIMITED, 1300 Post Oak Blvd, Suite 1650, Houston, Texas 77056

City: City of San Marcos, Texas, a home rule municipal corporation, 630, East Hopkins Street, San Marcos, Texas 78666

Property: As described in Exhibit A.

---

1. The Owner has petitioned the City and the City has elected to annex the Property into the corporate limits of the City. Pursuant to Tex. Local Gov't Code §43.0672, the Owner and the City enter this agreement (the "Agreement") for the provision of services to the Property when annexed.

2. By this Agreement, the Owner affirms its consent to such annexation of the Property by the City and that Owner does not wish to enter into and has declined the offer from the City of a development agreement under Sections 43.016 and 212.172 of the Texas Local Government Code

3. In consideration of the mutual benefits to the Owner and the City arising from the annexation of the Property, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the City enter into this Agreement and agree that services to the Property will be provided as described in Exhibit B.

4. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in state courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

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

6. This Agreement shall be binding upon Owner, and Owner's heirs, successors and assigns, and all future owners of all or any portion of the Property.

7. This Agreement will become effective as of the date an ordinance annexing the Property is finally passed, approved and adopted by the City's city council (the Effective Date).

[SIGNATURES ON NEXT PAGE]

CITY:

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on _____, 20___, by _____, _____of the City of San Marcos, in such capacity, on behalf of said municipality.

_____
Notary Public, State of Texas

OWNER:
OUTLET WEST INVESTORS LIMITED

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20__ by _____, _____ of _____ in such capacity on behalf of said entity.

_____
Notary Public, State of _____

EXHIBIT B

When the Property is annexed, services will be provided to the Property as follows:

1. Police Protection
Police services, including patrolling, response to calls and other routine services, will begin on the Effective Date of the annexation using existing personnel and equipment.

2. Fire Protection
Fire protection services, including emergency response calls, will begin on the Effective Date of the annexation using existing personnel and equipment and within the limitations of the available water supply.

3. Emergency Medical Services
Emergency medical services, including emergency response calls, will continue at the same level of service after the annexation. The City of San Marcos contracts for emergency medical services through the San Marcos – Hays County EMS, which already provides service to the area being annexed.

4. Solid Waste Collection
Solid waste collection services, provided under contract with a private company, will be made available to all properties on the Effective Date of the annexation. Residents of the Property may elect to continue using the services of a private solid waste hauler for a period of two years after the Effective Date of the annexation. Businesses and institutions must make arrangements with private solid waste haulers.

5. Operation and Maintenance of Water and Wastewater Facilities

a. Water. The Property is located within an area over which the City of San Marcos holds a Certificate of Convenience and Necessity (CCN) for water service. The City will make water service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property.

b. Wastewater. The Property is not covered by a CCN for wastewater service, however, the City of San Marcos has wastewater lines adjacent to the Property and agrees to make wastewater service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property. In addition, the City is in the process of adding the Property as an area covered by the City's CCN for wastewater service.

6. Construction, Operation and Maintenance of Roads and Streets
As new development occurs within the Property, the Owner(s) of Property will be required to construct streets at the Owner's sole expense in accordance with applicable ordinances of the City.

7. Electric Service

The Property is located in the Pedernales Electric service area. Thus, the City will not provide electric service to the Property.

8. Operation and Maintenance of Parks, Playgrounds, and/or Swimming Pools

No parks, playgrounds, and/or swimming pools currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding recreational facilities to serve the Property. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal parks and recreational facilities, subject to the same restrictions, fees, and availability that pertains to the use of those facilities by other citizens of the city.

9. Operation and Maintenance of Other Public Facilities, Buildings, and Services

No other public facilities, buildings, or services currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding other public facilities, building, and services. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal facilities, buildings, and services, subject to the same restrictions, fees, and availability that pertains to the use of those facilities and services by other citizens of the city.

ASH & ASSOCIATES
SURVEYING - PLANNING - ARCHITECTURE
"Serving the Community of Texas"
142 Jackson Lane
San Marcos, Texas 78666
Phone: 512-392-1719
ashandassociates.net

STATE OF TEXAS
COUNTY OF HAYS

9.610 ACRES
EDWARD BURLESON SURVEY
NO. 18 - ABSTRACT # 63

BEING 9.610 ACRES OF LAND SITUATED IN THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, HAYS COUNTY, TEXAS, SAME BEING A 7.959 ACRE PORTION OF THAT CALLED 109.22 ACRE TRACT OF LAND CONVEYED TO OUTLET WEST INVESTORS, LTD., A TEXAS LIMITED PARTNERSHIP, BY DEED DATED DECEMBER 21, 1998 AND RECORDED IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AND BEING A 1.153 ACRE PORTION OF CENTERPOINT ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, AND ALSO BEING ALL THAT 0.498 ACRE PORTION OF TRANSPORTATION WAY, A DEDICATED 76 FOOT PUBLIC RIGHT-OF-WAY AS SHOWN BY PLAT OF LOT 2, LOWMAN RANCH SUBDIVISION, SECTION TWO, AN ADDITION TO HAYS COUNTY, TEXAS ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 18, PAGE 17, HAYS COUNTY PLAT RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found with cap marked "BYRN" at the intersection of the southwest line of Centerpoint Road, a variable width public right-of-way, as widened and described in Exhibit 'A' in Lis Pendens Notice recorded in Volume 2571, Page 69, Official Public Records, Hays County, Texas, with the southeast line of said Transportation Way, for the east corner of the 9.611 acre herein described tract of land;

THENCE South 43°34'30" West (S 45°34'23" W Record), at a distance of 10.30 feet passing the north corner of said Lot 2, Lowman Ranch Section Two, and a common corner of the right-of-way of said Centerpoint Road, and continuing on for a total distance of **285.43 feet** (285.35' Record) to a 1/2" iron rod found with cap marked "BYRN" at the west corner of said Lot 2 and a common south corner of said Transportation Way, for a south corner of the herein described tract of land;

THENCE North 46°26'02" West (N 46°25'37" W Record), a distance of **75.99 feet** (76.00' Record) to a 1/2" iron rod found with cap marked "BYRN" at the west corner of said Transportation Way, for an interior corner of the herein described tract of land;

THENCE South 43°34'33" West (S 43°34'23" W Record), with the projection of the northwest line of said proposed Transportation Way, at a distance of 250.54 feet passing a 1/2" iron rod set with cap marked "RPLS 5687" set at the intersection of said proposed Transportation Way with the northeast line of a drainage easement described in Exhibit 'A' of the Instrument recorded in Volume 4389, Page 592 of the Hays County Real Property Records, and continuing on in all a total distance of **330.51 feet** to the approximate centerline of said drainage easement, for the south corner of the herein described tract of land;

THENCE North 46°29'00" West (N 45°58'03" W Record), with the approximate centerline of said drainage easement, a distance of **577.62 feet** to the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract and the common southeast line of the MK&T Railroad, for the west corner of the herein described tract of land, and from which a 1/2" iron rod found with cap marked "BYRN" at a west corner of said drainage easement bears South 46°38'05" West (S 47°09'14" W Record), a distance of 80.09 feet (80.12' Record);

THENCE with the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract and the common southeast line of the MK&T Railroad, the following courses and distances numbered **(1)** and **(2)**:

1) North 46°38'05" East (N 47°09'14" E Record), a distance of **80.09 feet** (80.12' Record) to a 1/2" iron rod found with cap marked "BYRN" at a north corner of said drainage easement;

2) North 46°39'10" East (N 47°08'53" E Record), a distance of **540.99 feet** to a 1/2" iron rod set with cap marked "RPLS 5687" set at the intersection of the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract with the southwest line of aforesaid Centerpoint Road, as widened, and from which the north corner of said Outlet West Investors, Ltd. called 109.22 acre tract bears North 46°39'10" East (N 47°08'53" E Record), a distance of 27.30 feet;

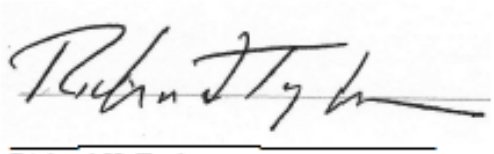
THENCE North 46°39'10" East (N 47°08'53" E Record), with the projection of the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract and the common southeast line of the MK&T Railroad, at a distance of 27.30 feet passing the record north corner of said Outlet West Investors, Ltd. called 109.22 acre tract, crossing said Centerpoint Road, and continuing on for a total distance of **82.22 feet** to a wire fence in the northeast line of said roadway, for the north corner of the herein described tract of land, same being in the southwest line of that certain called 63.133 acre tract of land conveyed as "Tract 1" in a deed to San Marcos Land Associates recorded in Volume 1060, Page 848 of the Deed Records of Hays County, Texas, and from which a steel corner fence post at the west corner of said San Marcos Land Associates called 63.133 acre tract bears, North 45°52'41" West, a distance of 0.43 feet;

THENCE South 45°52'41" East (S 44°21'26" E Record), with the northeast line of said Centerpoint Road and the common southwest line of said San Marcos Land Associates called 63.133 acre tract, along the meanders of a wire fence, a distance of **615.92 feet** to the intersection of said common line with the projection of the southeast line of the aforementioned Transportation Way, dedicated 76 foot public right-of-way, for the east corner of the herein described tract of land;

THENCE South 43°34'33" West, along the projection of the of the northwest line of said Transportation Way, crossing said Centerpoint Road, at a distance of 53.16 feet passing the record northeast line of aforesaid Outlet West Investors, Ltd. called 109.22 acre tract, and continuing on for a total distance of **79.86 feet** to the **POINT OF BEGINNING** and **CONTAINING 9.610 ACRES OF LAND**.

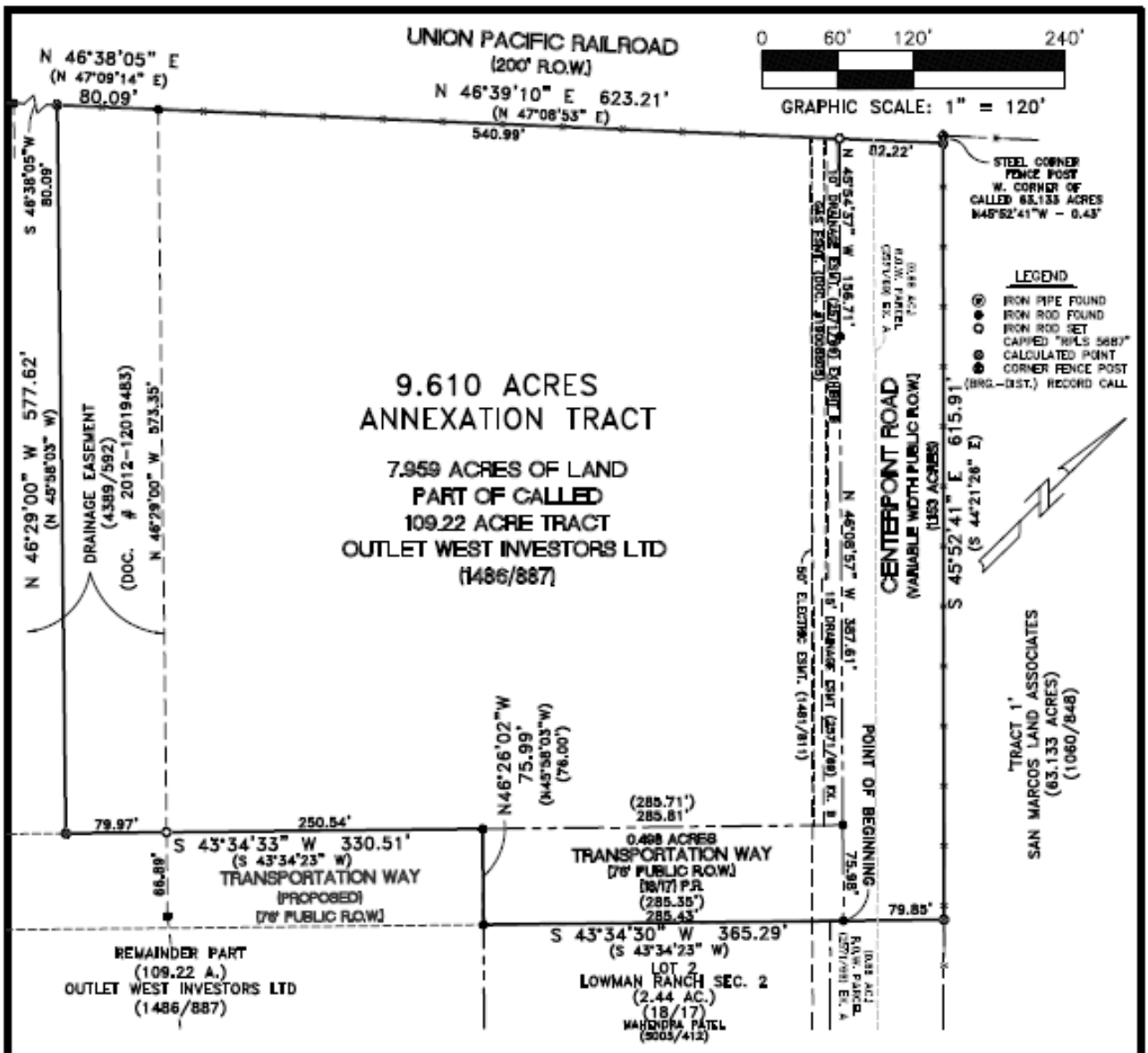
BEARING BASIS HEREIN DERIVED BY GPS MEASUREMENTS ADJUSTED BY HARN (HIGH ACCURACY REFERENCE NETWORK) & PROJECTED TO TEXAS STATE PLANE COORDINATES (TEXAS SOUTH CENTRAL ZONE) & NAD83.

I, Richard H. Taylor, do certify that this description and associated exhibit were prepared this date from a boundary survey performed under my direction during December 2019, and is true and correct to the best of my knowledge and belief.



Richard H. Taylor
Registered Professional Land Surveyor
No. 3986 State of Texas
Attachment: Drawing of 9.610 Acre Annexation Tract
Job: 19-7284

04/02/2020
Date



MAP TO ACCOMPANY DESCRIPTION OF:

9.610 ACRES OF LAND SITUATED IN THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, HAYS COUNTY, TEXAS, SAME BEING A 7.959 ACRE PORTION OF THAT CALLED 109.22 ACRE TRACT OF LAND CONVEYED TO OUTLET WEST INVESTORS, LTD., A TEXAS LIMITED PARTNERSHIP, BY DEED DATED DECEMBER 21, 1998 AND RECORDED IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AND BEING A 1.153 ACRE PORTION OF CENTERPOINT ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, AND ALSO BEING ALL THAT 0.498 ACRE PORTION OF TRANSPORTATION WAY, A DEDICATED 76 FOOT PUBLIC RIGHT-OF-WAY AS SHOWN BY PLAT OF LOT 2, LOWMAN RANCH SUBDIVISION, SECTION TWO, AN ADDITION TO HAYS COUNTY, TEXAS ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 18, PAGE 17, HAYS COUNTY PLAT RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS ATTACHED:

NOTES:

1) BEARING BASIS DERIVED BY GPS MEASUREMENTS ADJUSTED BY HARN (HIGH ACCURACY REFERENCE NETWORK) & PROJECTED TO TEXAS STATE PLANE COORDINATES & NAD83.

I, RICHARD H. TAYLOR, DO HEREBY CERTIFY THAT THIS PLAT OF THE PROPERTY SHOWN HEREON, WAS PREPARED THIS FROM A SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION DURING DECEMBER, 2019, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

04/02/2020
DATE

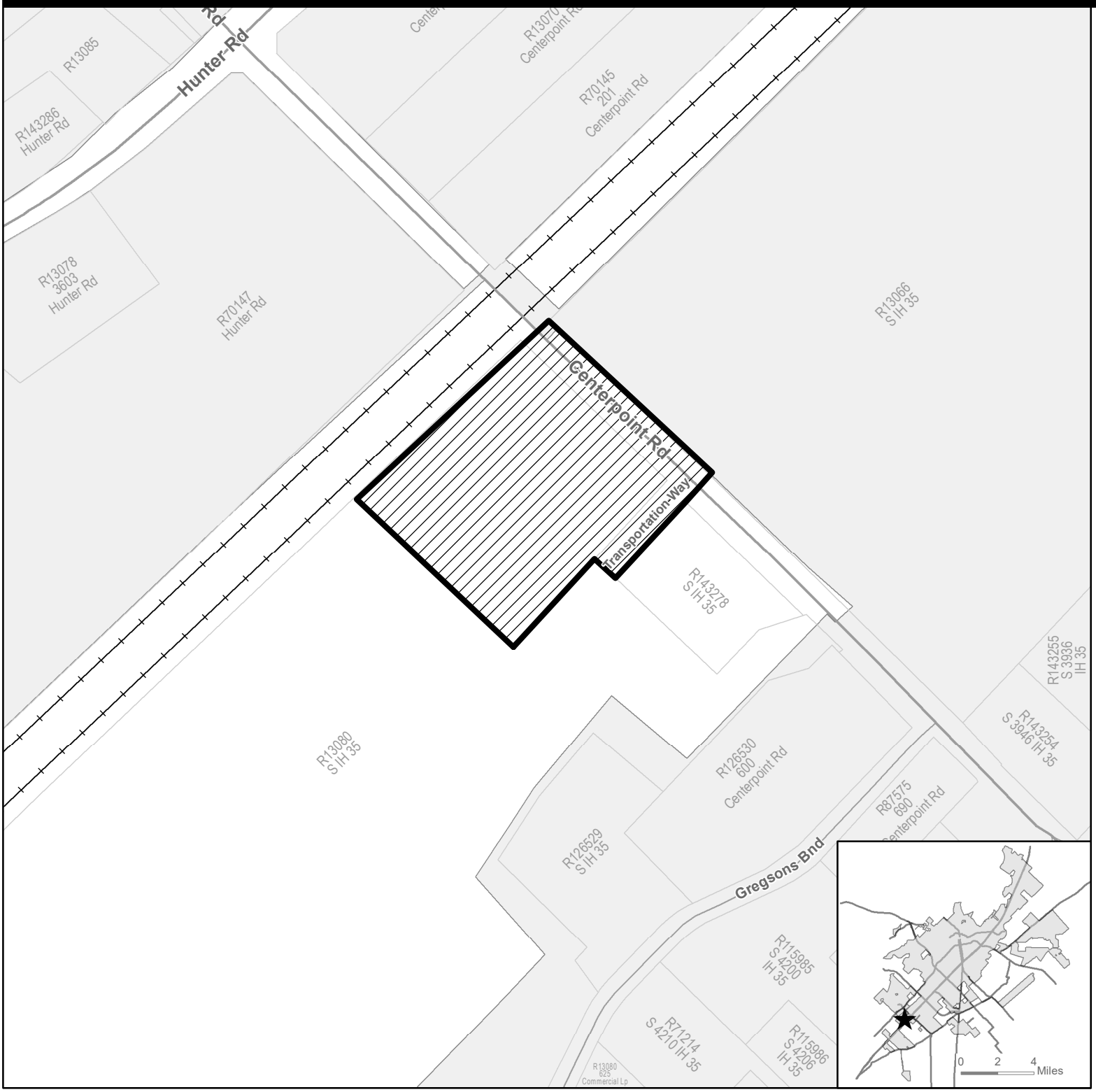
RICHARD H. TAYLOR, RPLS
REGISTERED PROFESSIONAL LAND SURVEYOR
NUMBER 5986 STATE OF TEXAS
©ASH & ASSOCIATES, L.L.C.

STATE OF TEXAS REGISTERED RICHARD TAYLOR 5986 PROFESSIONAL LAND SURVEYOR

ASH & ASSOCIATES
SURVEYING - PLANNING - ARCHITECTURE
142 JACKSON LANE
SAN MARCOS, TEXAS 78666
(512) 392-1719
ashandassociates.net
Surveying: 100847-00
Architecture: TX20240
"SERVING THE COMMUNITY OF TEXAS"

JOB NO: 19-7284 DRAWN BY: RHT FB: FILE

AN-20-04
Location Map
Annexation — 400 Block of Centerpoint Road



★ **Site Location**

Subject Property

Parcel

City Limit

N

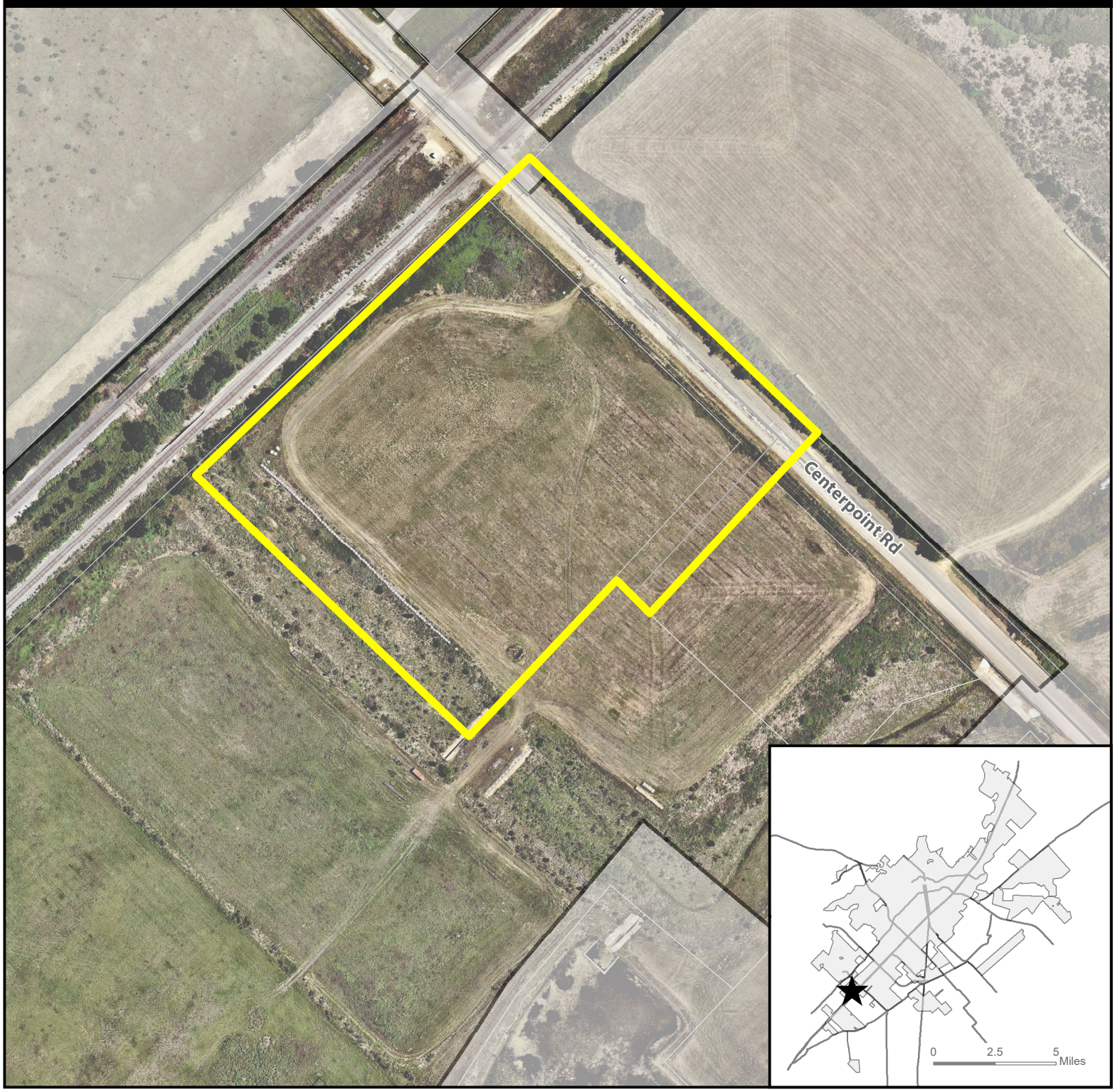
0 215 430 860 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-04 - Centerpoint Self Storage\GIS\AN-20-04 LocationMap.mxd

AN-20-04
Aerial View
Annexation — 400 Block of Centerpoint Road



★ **Site Location**

Subject Property

Parcel

City Limit

N

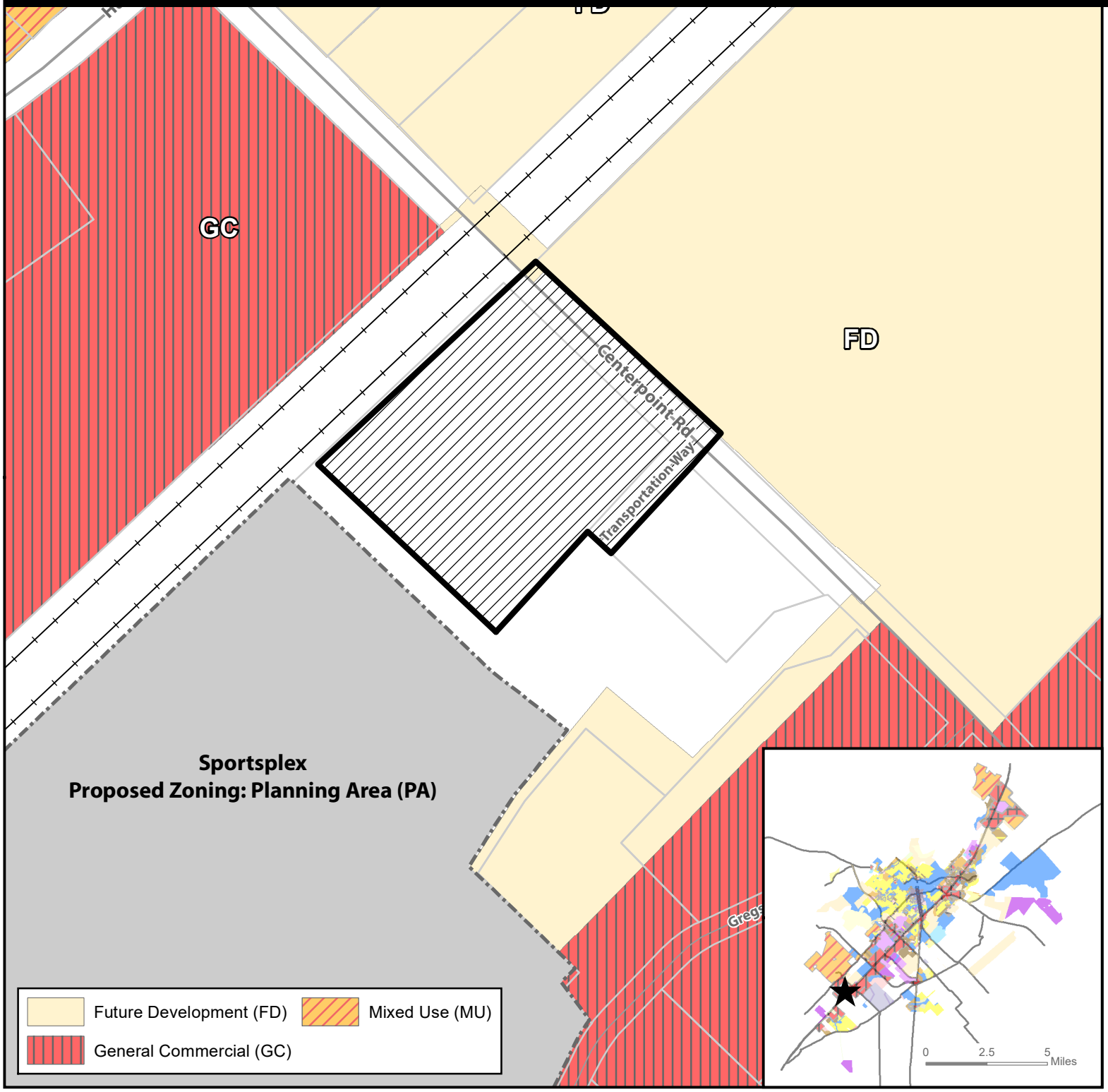
0 125 250 500 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-04 - Centerpoint Self Storage\GIS\AN-20-04 Aerial Map.mxd

AN-20-04
Existing Zoning Map
Annexation — 400 Block of Centerpoint Road



★ **Site Location**

Subject Property

Parcels

City Limit

N

0 190 380 760 Feet

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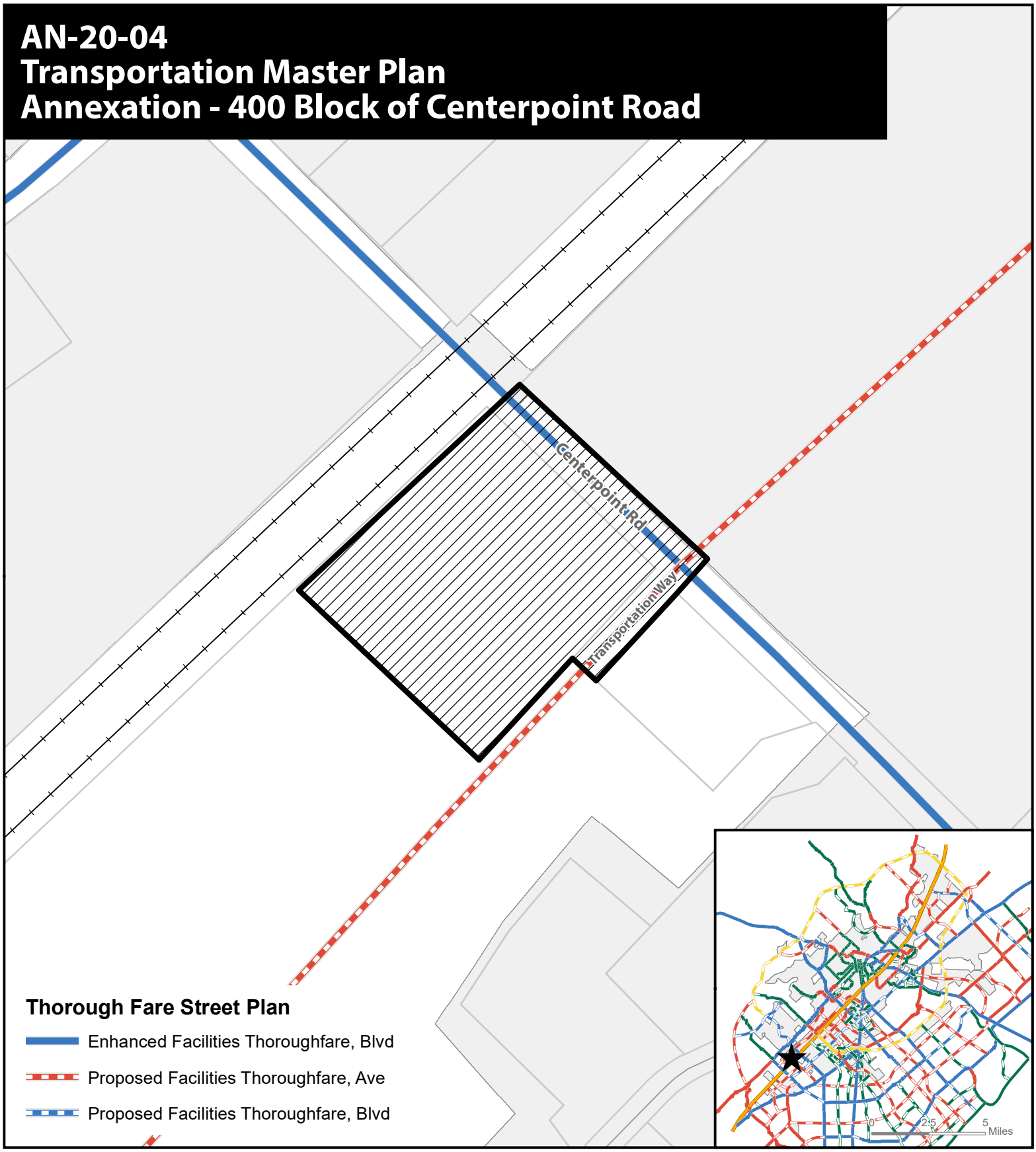
Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-04 - Centerpoint Self Storage\GIS\AN-20-04 ExistingZoning.mxd

AN-20-04
Transportation Master Plan
Annexation - 400 Block of Centerpoint Road



Subject Property

Parcels

City Limit

N

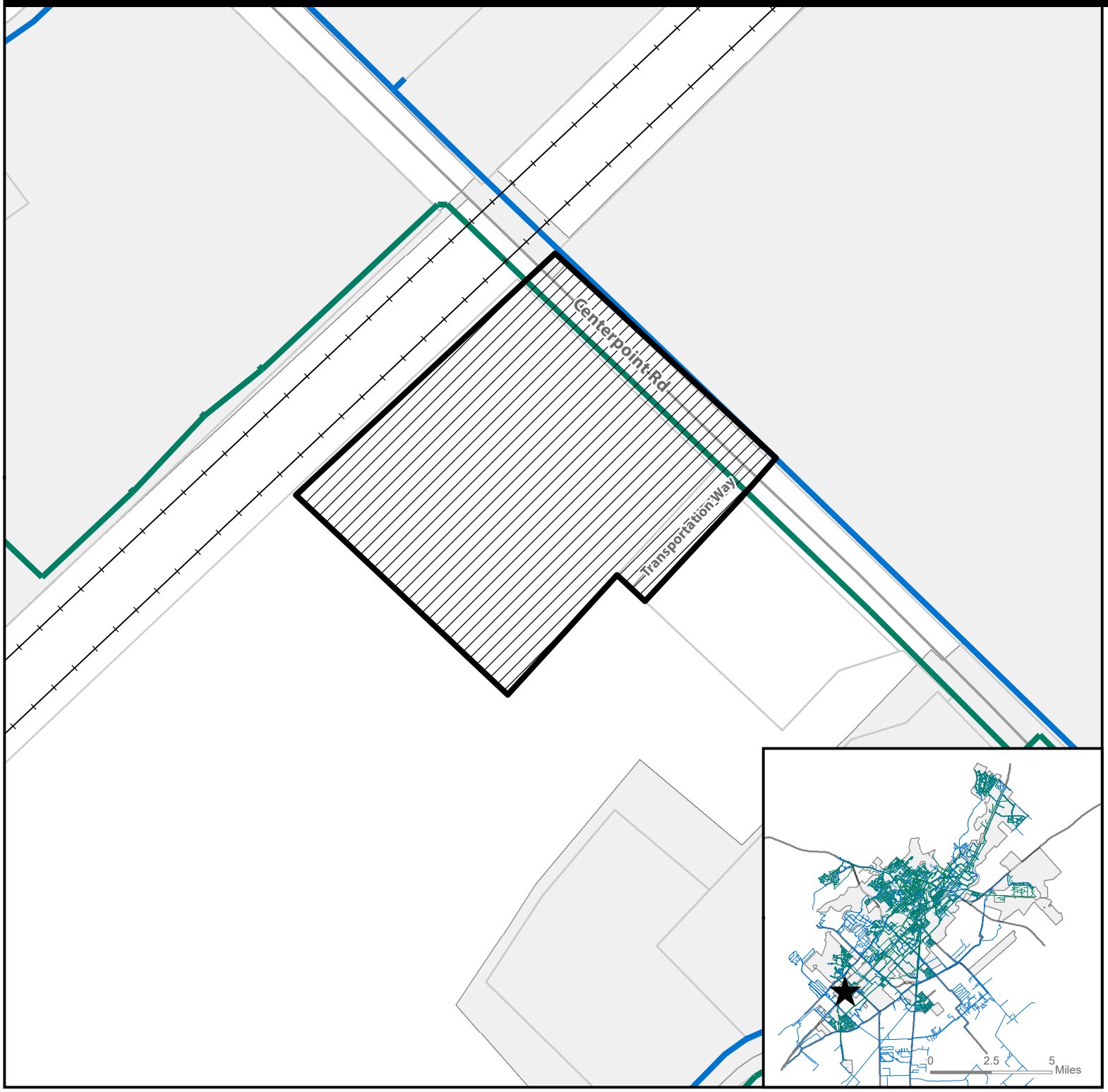
0 175 350 700 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-04 - Centerpoint Self Storage\GIS\AN-20-04 TMP.mxd

AN-20-04
Water/Wastewater Lines
Annexation — 400 Block of Centerpoint Road



Site Location

Subject Property

Parcels

City Limit

Sanitary Main

Water Main

N

0 160 320 640 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-04 - Centerpoint Self Storage\GIS\AN-20-04 WaterWastewaterLines.mxd

ANNEXATION APPLICATION

Updated: October, 2019

CONTACT INFORMATION

Applicant's Name	Benjamin Green	**Property Owner**	Outlet West Investors Limited
Company	Kimley-Horn	**Company**	
Applicant's Mailing Address	2600 Via Fortuna Suite 300	**Owner's Mailing Address**	1300 Post Oak Blvd, Suite 1650, Houston, TX 77056
Applicant's Phone #	512-646-2243	**Owner's Phone #**	713-552-1110
Applicant's Email	ben.green@kimley-horn.com	**Owner's Email**	bstrong@beemanstrong.com

PROPERTY INFORMATION

Is the property adjacent to city limits ■ YES ☐ NO

Is the property less than ½ mile in width ■ YES ☐ NO

Are there less than 3 qualified voters living on the property ■ YES ☐ NO

Proposed Use: Self-Storage **Proposed Zoning:** Heavy Commercial

Reason for Annexation / Other Considerations:

This development will request utility extensions which must be accompanied by a request for annexation.

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee $1,181 **Technology Fee $13** *TOTAL COST $1,194*

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

APPLY ONLINE – WWW.MYGOVERNMENTONLINE.ORG/

PROPERTY OWNER AUTHORIZATION

I, Robert C. Wilson, III, President of JOQ GP, LLC, Its General Partner (owner name) on behalf of Outlet West Investors Limited (company, if applicable) acknowledge that I/we am/are the rightful owner of the property located at 0 Centerpoint Road, San Marcos, TX 78666 (address).

I hereby authorize Benjamin Green (agent name) on behalf of Kimley-Horn (agent company) to file this application for Annexation (application type), and, if necessary, to work with the Responsible Official / Department on my behalf throughout the process.

2/20/2020

Signature of Owner: Date: 20 Feb 20

Approved BMA 02/19/20

Printed Name, Title: Robert C. Wilson, III, President of JOQ, LLC
General Partner of Outlet West Investors Limited

Signature of Agent: _____ Date: _____

Printed Name, Title: Benjamin Green PE, Project Manager

Form Updated October. 2019

File #: Res. 2020-91R, **Version:** 1

AGENDA CAPTION:
Consider approval of Resolution 2020-91R, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 60 acres out of the Thomas G. McGehee Survey, Abstract No. 11, Hays County, located at 4087 State Highway 21; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

Meeting date: April 21, 2020

Department: Planning and Development Services

Amount & Source of Funding
Funds Required: n/a
Account Number: n/a
Funds Available: n/a
Account Name: n/a

Fiscal Note:

Prior Council Action: n/a

City Council Strategic Initiative: n/a

Comprehensive Plan Element (s):

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☒ Land Use - Direct Growth, Compatible with Surrounding Uses

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Core Services

☐ Not Applicable

Master Plan: n/a

Choose an item.

Background Information:

This is a request for a voluntary annexation submitted by Jim Glasgow on behalf of Palace Way Partners LLC for approximately 60 +/- acres of land out of Thomas G. McGehee Survey, Abstract No. 11, Hays County, located at 4087 Hwy 21.

Maxwell Water Supply Corporation will provide water services at the site. Wastewater service will be provided by the City of San Marcos. This site is not located in the San Marcos Wastewater CCN, however, the CCN boundary will be updated after annexation of the site. The developer will be responsible for extending water and wastewater facilities through the site. Pedernales Electric will provide electric service for this development.

The City of San Marcos will provide Police, Fire, and EMS services to the site.

Below is a proposed schedule for this annexation, which complies with the Texas Local Government Code requirements:

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** April 21, 2020 (Today)
- **City Council Ordinance 1st Reading (Public Hearing):** May 19, 2020
- **City Council Ordinance 2nd Reading:** June 2, 2020

Council Committee, Board/Commission Action:

n/a

Alternatives:

n/a

Recommendation:

n/a

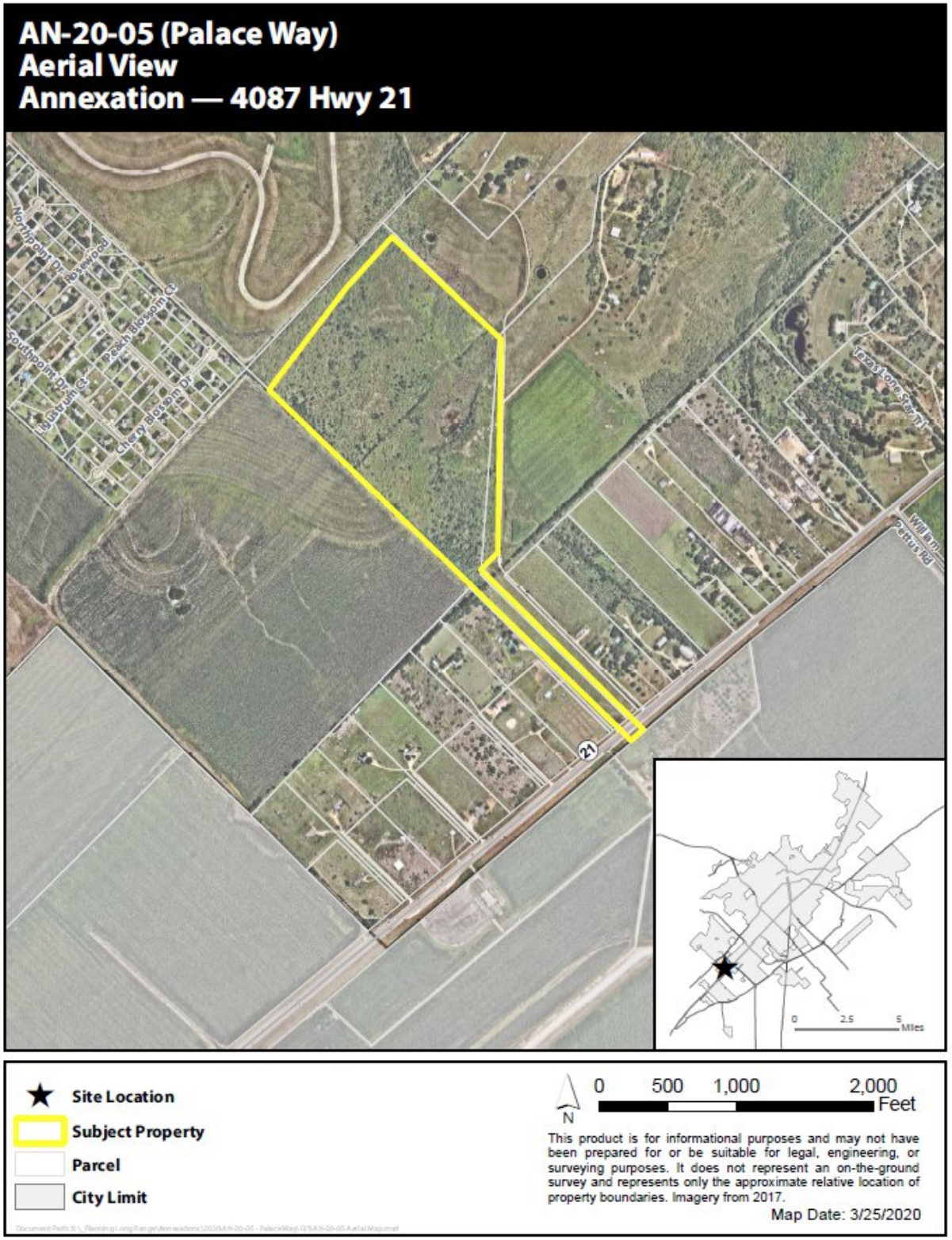
AN-20-05 (Palace Way)

Consider approval of Resolution 2020-XXR, approving an agreement for the provision of services in connection with the proposed owner requested annexation of approximately 60 +/- acres out of the Thomas G. McGehee Survey, Abstract No. 11, Hays County, located at 4087 Hwy 21; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

SAN MARCOS

Context:

- 4087 Hwy 21
- 60 +/- acres
- Applicant proposes to develop the majority of the property as a manufactured home park and the remaining portion of the property with light industrial uses
- The applicant has requested Manufactured Home (MH) and Light Industrial (LI) zoning, which is being considered concurrently with the annexation process.
- Service Plan (Attachment)



Annexation & Zoning Schedules:

**This schedule reflects the new annexation schedule per Texas House Bill 347*

Annexation Schedule

- **City Council Resolution (Approval of Service Agreement and set a public hearing date):** April 21, 2020 *(Today)*
- **City Council Ordinance 1st Reading (Public Hearing):** May 19, 2020
- **City Council Ordinance 2nd Reading:** June 2, 2020

Zoning Schedule

- **Planning and Zoning Commission (Public Hearing):** April 28, 2020
- **City Council Ordinance 1st Reading (Public Hearing):** May 19, 2020
- **City Council Ordinance 2nd Reading:** June 2, 2020

RESOLUTION NO. 2020-91R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN AGREEMENT FOR THE PROVISION OF SERVICES IN CONNECTION WITH THE PROPOSED OWNER REQUESTED ANNEXATION OF APPROXIMATELY 60 ACRES OF LAND AT 4087 STATE HIGHWAY 21; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY; SETTING A DATE FOR A PUBLIC HEARING CONCERNING THE PROPOSED ANNEXATION OF SAID TRACT OF LAND; AND DECLARING AN EFFECTIVE DATE.

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

PART 1. The attached Agreement for the Provision of Services is hereby approved.

PART 2. The City Manager, or his designee, is authorized to execute said Agreement on behalf of the City.

PART 3. The date for the public hearing concerning the proposed annexation of the land described in said Agreement shall be May 19, 2020.

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

ADOPTED on April 21, 2020.

Jane Hughson
Mayor

Attest:

Tammy K. Cook
Interim City Clerk

AGREEMENT FOR THE PROVISION OF SERVICES
(Pursuant to Tex. Local Gov't Code §43.0672)

Date: April 21, 2020

Owner: PALACE WAY PARTNERS, LLC, 6531 Fox Run, San Antonio, Texas 78233

City: City of San Marcos, Texas, a home rule municipal corporation, 630, East Hopkins Street, San Marcos, Texas 78666

Property: As described in Exhibit A.

---

1. The Owner has petitioned the City and the City has elected to annex the Property into the corporate limits of the City. Pursuant to Tex. Local Gov't Code §43.0672, the Owner and the City enter this agreement (the "Agreement") for the provision of services to the Property when annexed.

2. By this Agreement, the Owner affirms its consent to such annexation of the Property by the City and that Owner does not wish to enter into and has declined the offer from the City of a development agreement under Sections 43.016 and 212.172 of the Texas Local Government Code

3. In consideration of the mutual benefits to the Owner and the City arising from the annexation of the Property, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the City enter into this Agreement and agree that services to the Property will be provided as described in Exhibit B.

4. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in state courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

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

6. This Agreement shall be binding upon Owner, and Owner's heirs, successors and assigns, and all future owners of all or any portion of the Property.

7. This Agreement will become effective as of the date an ordinance annexing the Property is finally passed, approved and adopted by the City's city council (the Effective Date).

[SIGNATURES ON NEXT PAGE]

CITY:

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on _____, 20___, by _____, _____of the City of San Marcos, in such capacity, on behalf of said municipality.

_____
Notary Public, State of Texas

OWNER:
PALACE WAY PARTNERS, LLC

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 20__ by _____, _____ of _____ in such capacity on behalf of said entity.

_____
Notary Public, State of _____

EXHIBIT B

When the Property is annexed, services will be provided to the Property as follows:

1. Police Protection
Police services, including patrolling, response to calls and other routine services, will begin on the Effective Date of the annexation using existing personnel and equipment.

2. Fire Protection
Fire protection services, including emergency response calls, will begin on the Effective Date of the annexation using existing personnel and equipment and within the limitations of the available water supply.

3. Emergency Medical Services
Emergency medical services, including emergency response calls, will continue at the same level of service after the annexation. The City of San Marcos contracts for emergency medical services through the San Marcos – Hays County EMS, which already provides service to the area being annexed.

4. Solid Waste Collection
Solid waste collection services, provided under contract with a private company, will be made available to all properties on the Effective Date of the annexation. Residents of the Property may elect to continue using the services of a private solid waste hauler for a period of two years after the Effective Date of the annexation. Businesses and institutions must make arrangements with private solid waste haulers.

5. Operation and Maintenance of Water and Wastewater Facilities

a. Water. The Property is located within the Maxwell Water Supply Corporation Certificate of Convenience and Necessity (CCN) for water service, thus, the City is not providing water service to the Property. The Owner is solely responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property.

b. Wastewater. The Property is not covered by a CCN for wastewater service, however, the City of San Marcos has wastewater lines near the Property and agrees to make wastewater service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is solely responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property. In addition, the City is in the process of adding the Property as an area covered by the City's CCN for wastewater service.

6. Construction, Operation and Maintenance of Roads and Streets
As new development occurs within the Property, the Owner(s) of Property will be required to construct streets at the Owner's sole expense in accordance with applicable ordinances of the City.

7. Electric Service

The Property is located in the Pedernales Electric service area. Thus, the City will not provide electric service to the Property.

8. Operation and Maintenance of Parks, Playgrounds, and/or Swimming Pools

No parks, playgrounds, and/or swimming pools currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding recreational facilities to serve the Property. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal parks and recreational facilities, subject to the same restrictions, fees, and availability that pertains to the use of those facilities by other citizens of the city.

9. Operation and Maintenance of Other Public Facilities, Buildings, and Services

No other public facilities, buildings, or services currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding other public facilities, building, and services. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal facilities, buildings, and services, subject to the same restrictions, fees, and availability that pertains to the use of those facilities and services by other citizens of the city.

LEGAL DESCRIPTION

DESCRIPTION OF 59.59 ACRES, MORE OR LESS, OF LAND AREA IN THE THOMAS G. McGEHEE SURVEY, ABSTRACT NUMBER 11, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 64.68 ACRES IN A DEED FROM C & G DEVELOPMENT, INC. TO ABUNDANT LIFE CHRISTIAN CHURCH, DATED NOVEMBER 12, 1999 AND RECORDED AS DOCUMENT NUMBER 9927062 IN THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found with a plastic cap stamped "Byrn Survey" in the common northwest line of State Highway Number 21 and that tract described as 3.82 acres in a Deed from Mrs. Millie Gary et vir to the State of Texas, dated December 15, 1938 and recorded in Volume 117, Page 493 of the Hays County Deed Records, for the common south corner of the Abundant Life Christian Church tract and the east corner of Tract 14, Dove Meadow as recorded in Volume 7, Page 347 of the Hays County Plat Records, from which a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the easterly south corner of Tract 14, Dove Meadow bears S 50°45'13" W 31.27 feet;

THENCE leaving State Highway Number 21, the State of Texas tract and the **PLACE OF BEGINNING** with the common southwest line of the Abundant Life Christian Church tract and the northeast line of Tract 14, Dove Meadow, as shown on that plat numbered 27042-19-2-c dated July 15, 2019 prepared for Abundant Life Christian Church by Byrn & Associates, Inc., of San Marcos, Texas, **N 45°26'48" W 1420.16 feet** to a 6" cedar corner post found for the north corner of Tract 14, Dove Meadow and the east corner of that tract described as "Second Tract-97.04 acres" in a Deed from William Ohren Hopson & Laura Elizabeth Weatherford, Trustees, to William Ohren Hopson et al dated March 13, 2018 and recorded as Document No. 18008882 in the Hays County Official Public Records;

THENCE leaving Tract 14, Dove Meadow, with the common southwest line of the Abundant Life Christian Church tract and the northeast line of the Hopson tract, **N 46°29'03" W 2104.26 feet** to an iron rod found with a plastic cap in the southeast line of the proposed F M Highway No. 110 for the north corner of the Hopson 97.04 acre tract, the south corner of that tract described as 5.058 acres in a deed from Abundant life Christian Church to Hays County dated March 12, 2015 and recorded in Volume 5158, Page 87 of the Hays County Official Public Records, the east corner of that tract described as 11.736 acres in a deed from Carol Sue Hopson Cole, Executor, to Hays County dated March 10, 2016 and recorded as Document No. 16008150 in the Hays County Official Public Records and the west corner of this description, from which a 1" iron pipe found for the west corner

of the 5.058 acre Hays County tract bears N 46°30'10" W 233.98 feet;

THENCE leaving the Hopson tract and the Hays County 11.736 acre tract, with the common northwest line of the Abundant Life Christian Church tract and southeast line of the proposed F M Highway 110 and the Hays County 5.058 acre tract the following four courses:

1. With a right-breaking curve having the following characteristics: central angle=06°14'14", radius=8890.00 feet, arc length=967.77 feet and a chord which bears **N 36°31'32" E 967.29 feet** to an iron rod found with a plastic cap,
2. **N 45°21'23" E 251.79 feet** to an iron rod found with a plastic cap,
3. **N 39°38'24" E 199.92 feet** to an iron rod found with a plastic cap, and
4. **N 32°35'26" E 25.54 feet** to an iron rod found with a plastic cap in the southwest line of that tract described as 10.005 acres in a deed from J. R. Laughman to VCD Gathering Partnership, Ltd. Dated December 26, 2012 and recorded as Document No. 17044935 in the Hays County Official Public Records for the south corner of that tract described as 0.843 acres in a deed from J. R. Laughman to Hays County dated November 7, 2017 and recorded as Document No. 17039607 in the Hays County Official Public Records and north corner of this description;

THENCE leaving the proposed F M Highway No. 110 and the Hays County Tracts, with the common northeast line of the Abundant Life Christian Church tract and the southwest line of the VCD 10.005 acre tract and its extension, **S 46°39'27" E 1088.94 feet** to an iron rod found with a plastic cap found in the southwest line of that tract described as "Tract 1-30.020 acres" in a deed from Dr. Michael Abel to New Direction IRA, Inc. dated September 16, 2015 and recorded in Volume 5328, Page 670 of the Hays County Official Public Records and an exterior west corner of that tract described as 91.37 acres in a deed from David B. Hennington et ux to David B. Hennington and Wanda J. Hennington, Trustees, dated May 24, 2000 and recorded in Volume 1675, Page 312 of the Hays County Official Public Records, from which a ½" iron rod found for the south corner of the New Direction 30.020 acre tract and an interior west corner of the Hennington tract bears S45°36'40" E 13.47 feet, pass at 824.01 feet a 1/2" iron rod found for the south corner of the VCD tract and a west corner of the New Direction tract;

THENCE leaving the New Direction tract, with the common east line of the Abundant Life Christian Church tract and the west line of the Hennington tract, the following three courses:

1. **S 00°48′44″ W 1556.87 feet** to a ½″ iron rod found in a gravel drive,

2. **S 46°12′08″ W 175.99 feet** to a ½″ iron rod found with a plastic cap, and

3. **S 45°25′53″ E 1530.10 feet** to a ½″ iron rod found with a plastic cap stamped "Byrn Survey" in the northwest line of State Highway Number 21 and the previously mentioned State of Texas 3.82 acre tract, for an easterly south corner of the Abundant Life Christian Church tract and westerly south corner of the Hennington tract, from which a ½″ iron rod found with a plastic cap stamped "Byrn Survey" for the easterly south corner of the Hennington tract bears N 50°26′22″ E 117.96 feet;

THENCE leaving the Hennington tract, with the common southeast line of the Abundant Life Christian Church tract and the northwest line of State Highway Number 21 and the State of Texas tract, **S 50°26′22″ W 118.16 feet** to the **PLACE OF BEGINNING.**

AN-20-05 (Palace Way)
Location Map
Annexation — 4087 Hwy 21

★ **Site Location**

Subject Property

Parcel

City Limit

N

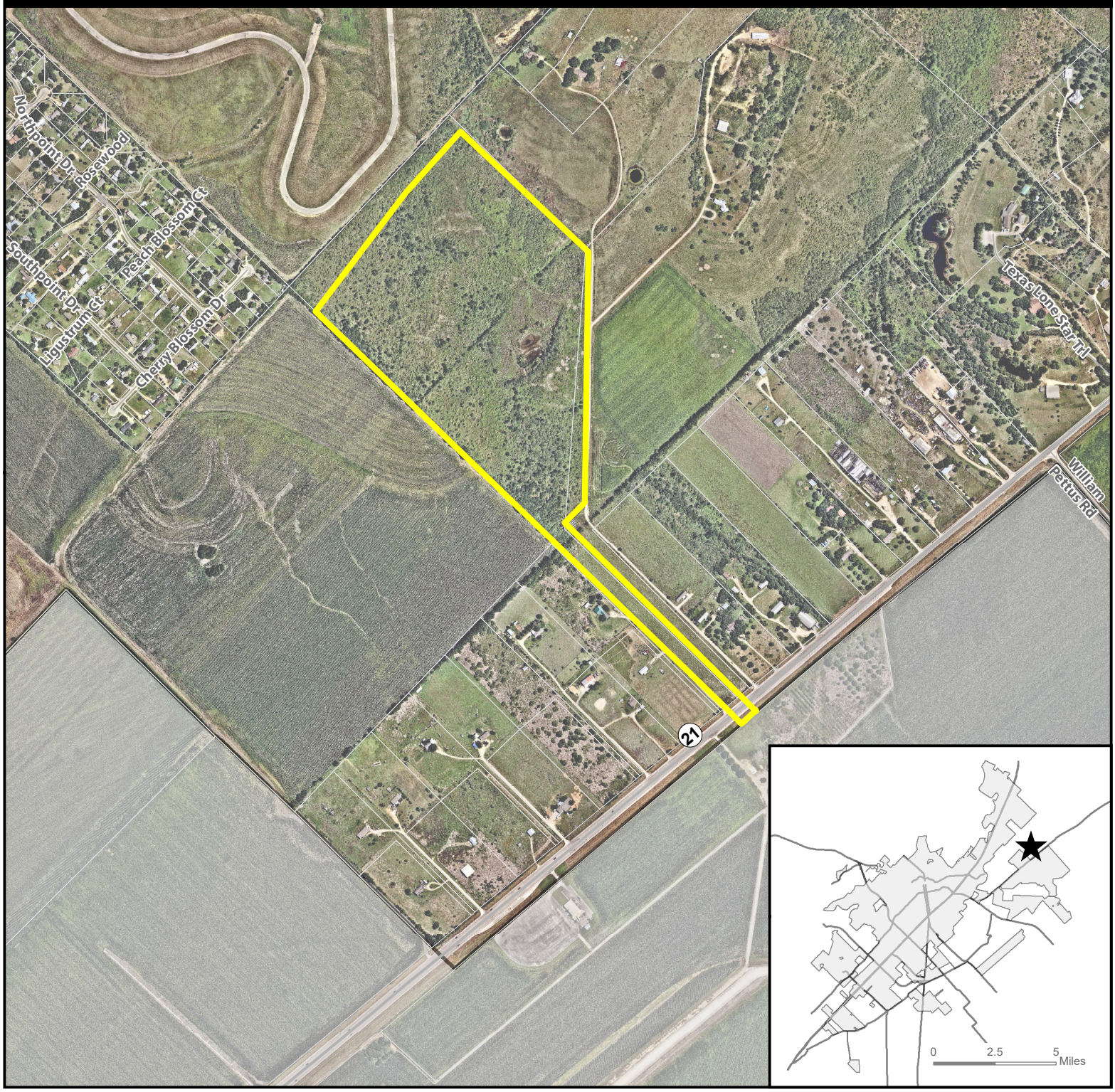
0 485 970 1,940 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-05 - Palace Way\GIS\AN-20-05 LocationMap.mxd

AN-20-05 (Palace Way)
Aerial View
Annexation — 4087 Hwy 21



★ **Site Location**

Subject Property

Parcel

City Limit

N

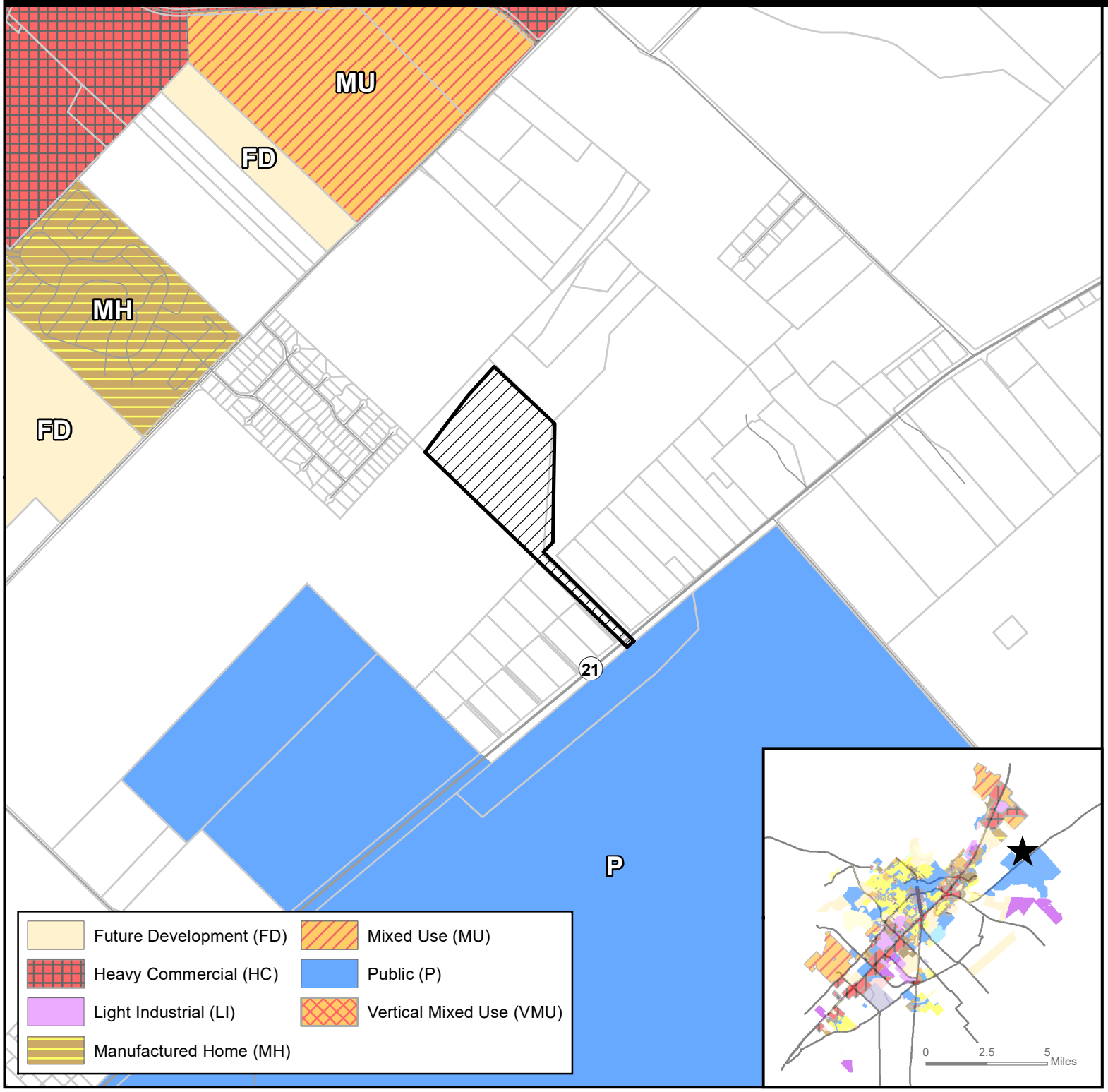
0 500 1,000 2,000 Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-05 - Palace Way\GIS\AN-20-05 Aerial Map.mxd

AN-20-05 (Palace Way)
Existing Zoning Map
Annexation — 4087 Hwy 21



Site Location

Subject Property

Parcels

City Limit

N

0 1,050 2,100 4,200 Feet

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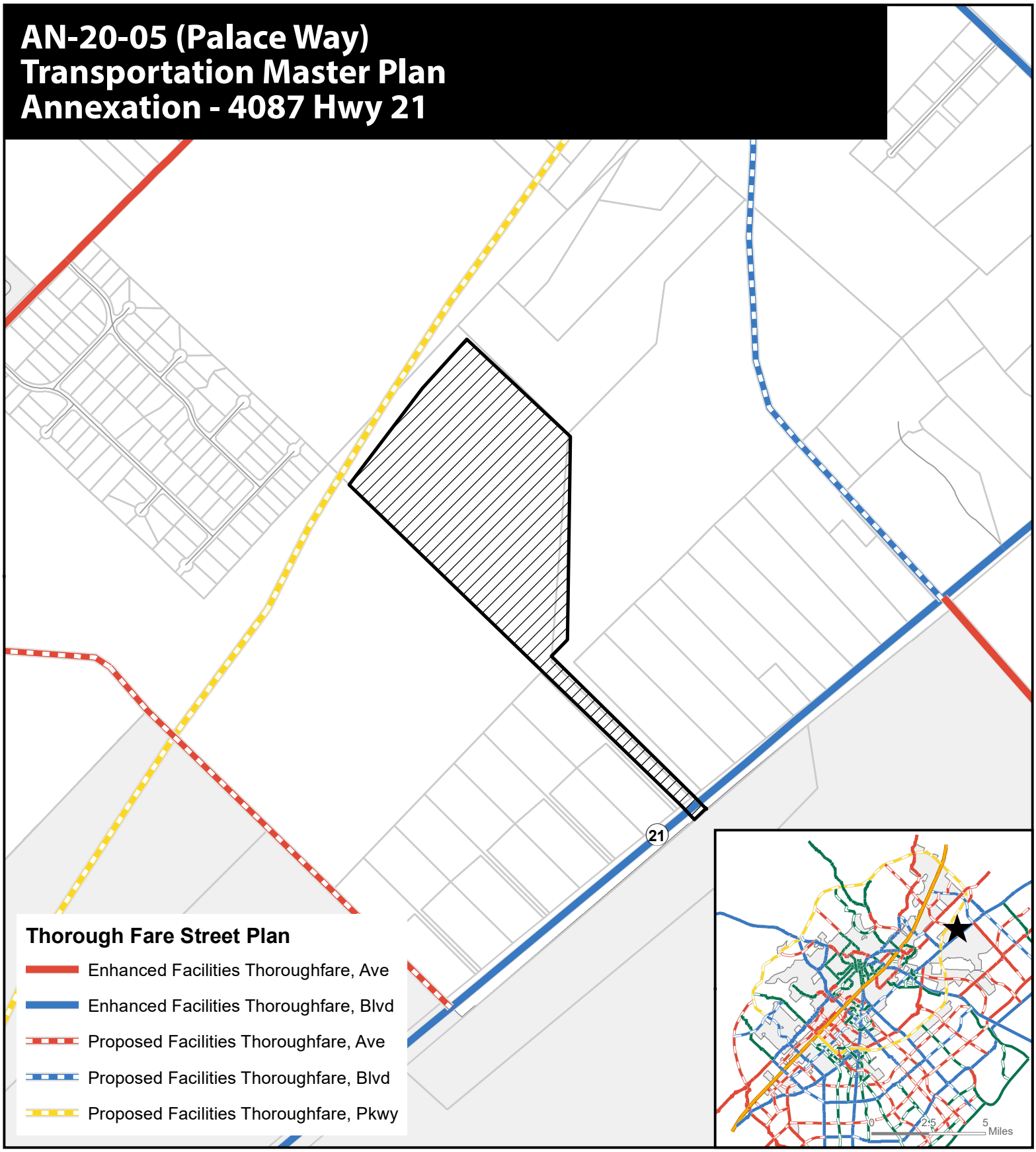
Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-05 - Palace Way\GIS\AN-20-05 ExistingZoning.mxd

AN-20-05 (Palace Way)
Transportation Master Plan
Annexation - 4087 Hwy 21



Subject Property

Parcels

City Limit

N

0 550 1,100 2,200 Feet

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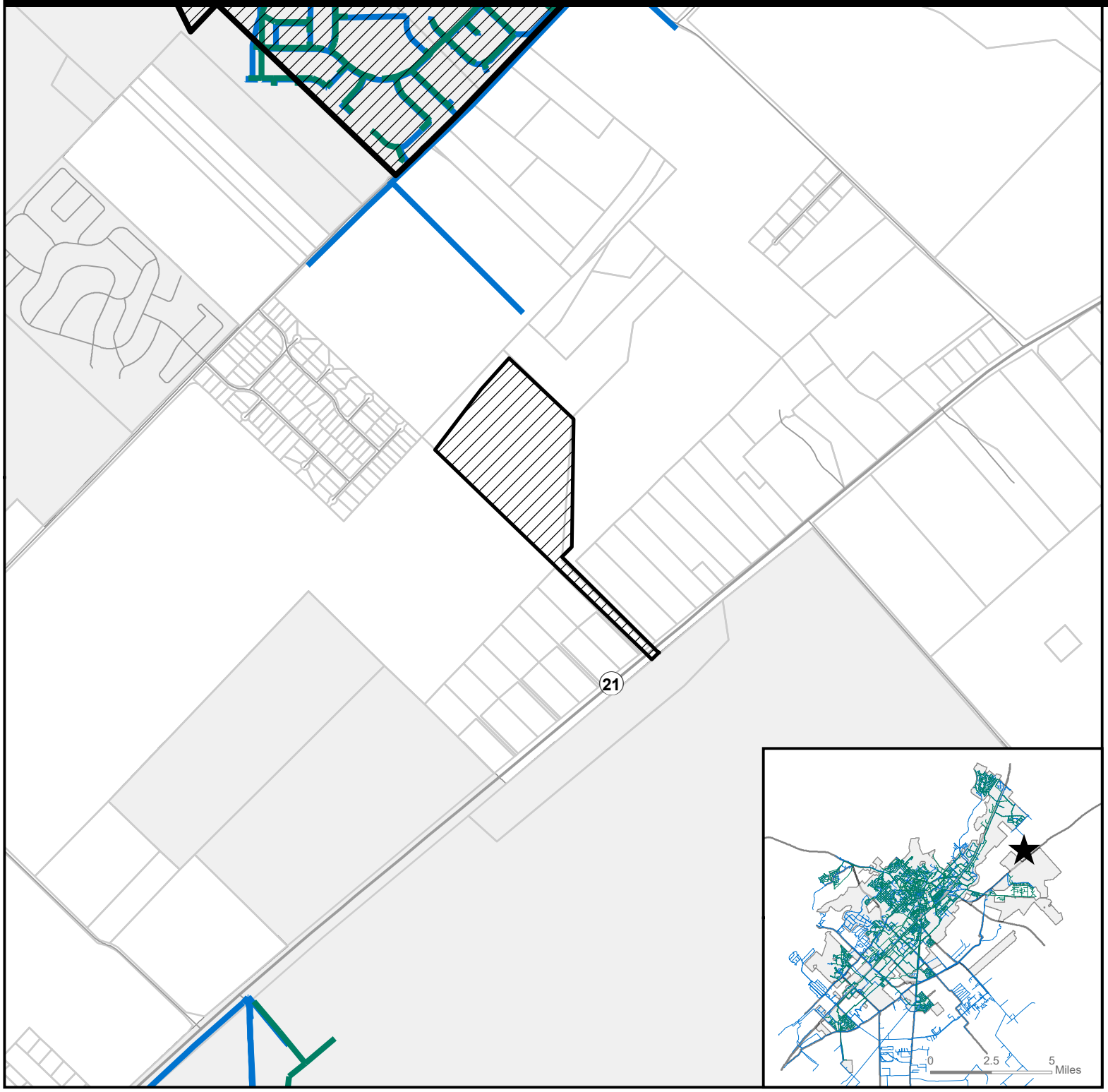
Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-05 - Palace Way\GIS\AN-20-05 TMP.mxd

AN-20-05 (Palace Way)
Water/Wastewater Lines
Annexation — 4087 Hwy 21



Site Location

Subject Property

Parcels

City Limit

Sanitary Main

Water Main

N

0 1,000 2,000 4,000 Feet

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Map Date: 3/25/2020

Document Path: X:_Planning Long Range\Annexations\2020\AN-20-05 - Palace Way\GIS\AN-20-05 WaterWastewaterLines.mxd

SURVEYORS NOTES

1. FENCES MEANDER.

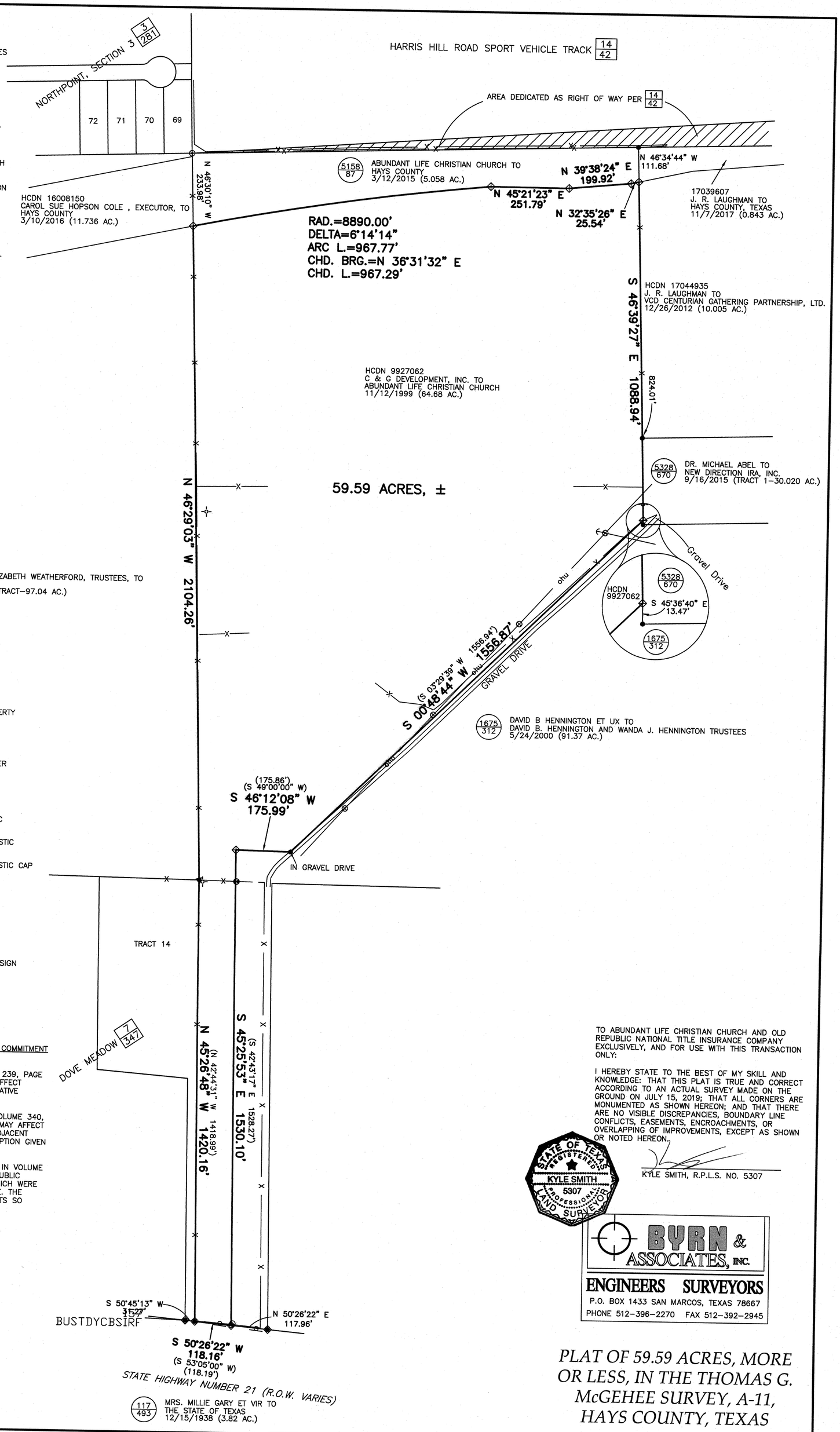
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.

3. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0415F, DATED 9/282005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).

4. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.

5. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A LAND DESCRIPTION DATED JULY 15, 2019 PREPARED BY BYRN AND ASSOCIATES, INC. OF SAN MARCOS, TEXAS.

6. THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.



LEGEND

VOL/PG	HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
VOL/PG	HAYS COUNTY PLAT RECORDS
HCDN	HAYS COUNTY DOCUMENT NUMBER
●	1/2" IRON ROD FOUND OR DIAMETER NOTED
⊙	3/4" IRON PIPE FOUND OR DIAMETER NOTED
	1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
	1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "BYRN SURVEY"
⊠	1/2" IRON ROD FOUND WITH PLASTIC CAP
— X —	WIRE FENCE
— ohu —	UTILITY LINE, POLE AND GUY
	WATER METER
	WATER VALVE
	UTILITY PEDESTAL
	CLEANOUT
▲	6" CEDAR FENCE POST
	UNDERGROUND UTILITY WARNING SIGN
	WATER SPIGOT

NOTES CORRESPONDING TO SCHEDULE B OF TITLE COMMITMENT G.F. NO. 20190411 DATED MAY 2, 2019

10(c) WATERLINE EASEMENT RECORDED IN VOLUME 239, PAGE 222 OF THE HAYS COUNTY DEED RECORDS. MAY AFFECT SUBJECT TRACT ALTHOUGH THERE IS NOT ANY LOCATIVE INFORMATION PROVIDED IN DEED.

10(d) INGRESS EGRESS EASEMENT RECORDED IN VOLUME 340, PAGE 666 OF THE HAYS COUNTY DEED RECORDS. MAY AFFECT SUBJECT PROPERTY. THE GRAVEL DRIVE ON THE ADJACENT PROPERTY TO THE EAST FITS THE GENERAL DESCRIPTION GIVEN IN THE DEED.

10(e) STREET MAINTENANCE AGREEMENT RECORDED IN VOLUME 1301, PAGE 165 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS. THIS AGREEMENT IS FOR PROPERTIES WHICH WERE GRANTED EASEMENT RIGHTS TO USE COWTRAIL LANE. THE SUBJECT TRACT WAS NOT GRANTED EASEMENT RIGHTS SO THEREFORE IS NOT SUBJECT TO THIS AGREEMENT.

TO ABUNDANT LIFE CHRISTIAN CHURCH AND OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY:

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE: THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON JULY 15, 2019; THAT ALL CORNERS ARE MONUMENTED AS SHOWN HEREON; AND THAT THERE ARE NO VISIBLE DISCREPANCIES, BOUNDARY LINE CONFLICTS, EASEMENTS, ENCROACHMENTS, OR OVERLAPPING OF IMPROVEMENTS, EXCEPT AS SHOWN OR NOTED HEREON.

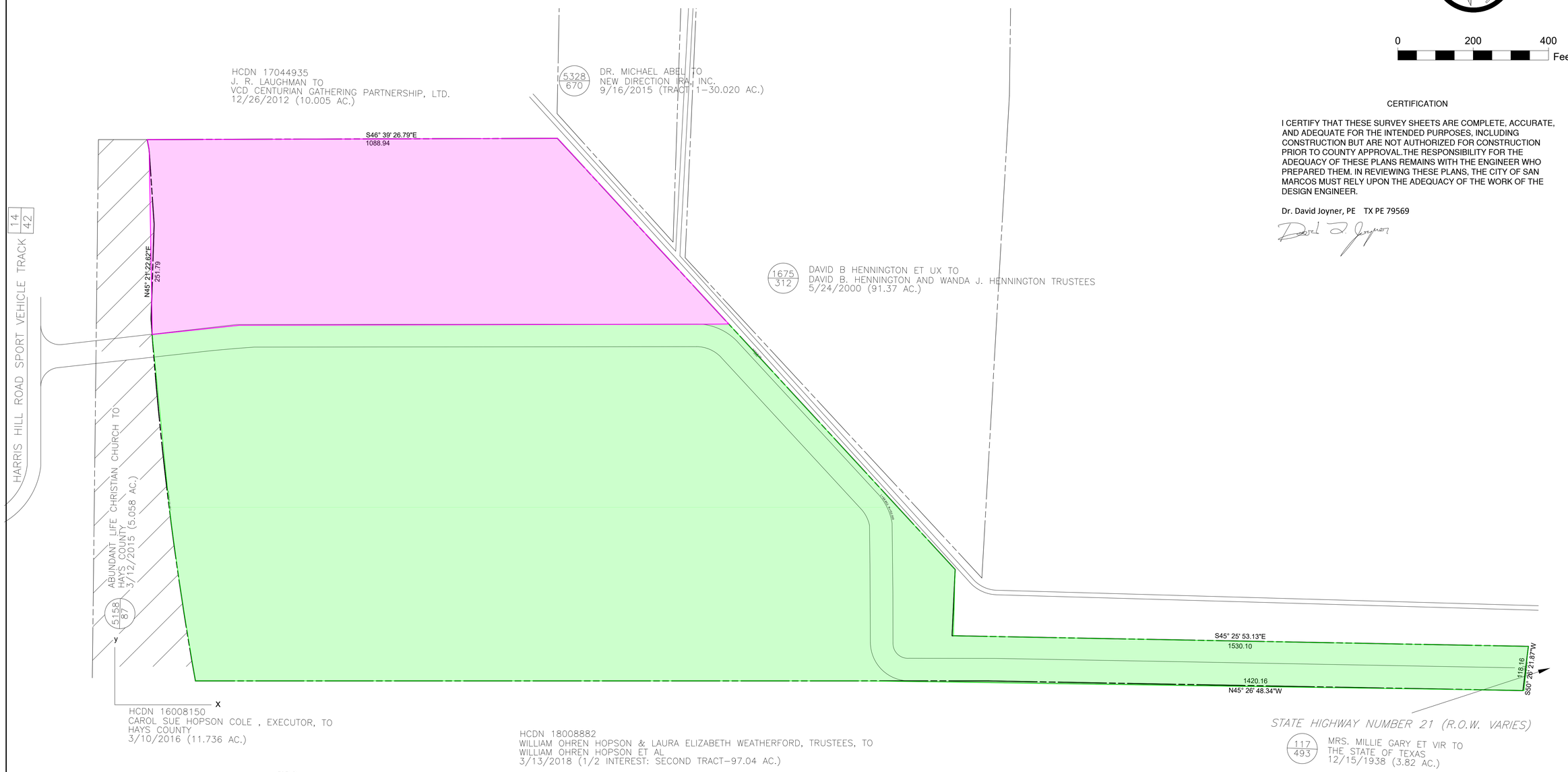
STATE OF TEXAS REGISTERED KYLE SMITH 5307 PROFESSIONAL LAND SURVEYOR

KYLE SMITH, R.P.L.S. NO. 5307

BYRN & ASSOCIATES, INC.
ENGINEERS SURVEYORS
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512-396-2270 FAX 512-392-2945

PLAT OF 59.59 ACRES, MORE OR LESS, IN THE THOMAS G. McGEHEE SURVEY, A-11, HAYS COUNTY, TEXAS

CLIENT: ABUNDANT LIFE CHRISTIAN CHURCH
DATE: 7/15/2019
OFFICE: BRYANT
CREW: C. SMITH
FB/PG: 723/39
PLAT NO. 27042-19-2-c



0 200 400 Feet

CERTIFICATION

I CERTIFY THAT THESE SURVEY SHEETS ARE COMPLETE, ACCURATE, AND ADEQUATE FOR THE INTENDED PURPOSES, INCLUDING CONSTRUCTION BUT ARE NOT AUTHORIZED FOR CONSTRUCTION PRIOR TO COUNTY APPROVAL.THE RESPONSIBILITY FOR THE ADEQUACY OF THESE PLANS REMAINS WITH THE ENGINEER WHO PREPARED THEM. IN REVIEWING THESE PLANS, THE CITY OF SAN MARCOS MUST RELY UPON THE ADEQUACY OF THE WORK OF THE DESIGN ENGINEER.

Dr. David Joyner, PE TX PE 79569

SURVEYORS NOTES

1. FENCES MEANDER.

2. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0415F, DATED 9/282005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).

3. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THIS ENGINEER DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.

5. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH A LAND DESCRIPTION DATED JULY 15, 2019 PREPARED BY BYRN AND ASSOCIATES, INC. OF SAN MARCOS, TEXAS.

6. THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.

LEGEND

VOL / PG	HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
VOL / PG	HAYS COUNTY PLAT RECORDS
HCDN	HAYS COUNTY DOCUMENT NUMBER
●	1/2" IRON ROD FOUND OR DIAMETER NOTED
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⊠	1/2" IRON ROD FOUND WITH PLASTIC CAP
—— X ——	WIRE FENCE
ohu —⊕—>	UTILITY LINE, POLE AND GUY
◒	WATER METER
⊘	WATER VALVE
△	UTILITY PEDESTAL
▢	CLEANOUT
▲	6" CEDAR FENCE POST
"O"	UNDERGROUND UTILITY WARNING SIGN
✕	WATER SPIGOT

NOTES CORRESPONDING TO SCHEDULE B OF TITLE COMMITMENT G.F. NO. 20190411 DATED MAY 2, 2019

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10(d) INGRESS EGRESS EASEMENT RECORDED IN VOLUME 340, PAGE 666 OF THE HAYS COUNTY DEED RECORDS. MAY AFFECT SUBJECT PROPERTY. THE GRAVEL DRIVE ON THE ADJACENT PROPERTY TO THE EAST FITS THE GENERAL DESCRIPTION GIVEN IN THE DEED.

10(e) STREET MAINTENANCE AGREEMENT RECORDED IN VOLUME 1301, PAGE 165 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS. THIS AGREEMENT IS FOR PROPERTIES WHICH WERE GRANTED EASEMENT RIGHTS TO USE COWTRAIL LANE. THE SUBJECT TRACT WAS NOT GRANTED EASEMENT RIGHTS SO THEREFORE IS NOT SUBJECT TO THIS AGREEMENT.

PROPOSED ZONING	
DESCRIPTION	AREA
TOTAL LOT	59.59ac
INDUSTRIAL PORTION	14.90ac
RESIDENTIAL PORTION	44.69ac

ZONING

HIGHWAY 21 LAND DEVELOPMENT

BEING A ZONING OF 59.59 ACRES, MORE OR LESS, IN THE THOMAS G. McGEHEE SURVEY, A-11, HAYS COUNTY, TEXAS

STATE OF TEXAS
DAVID L. JOYNER
79569
REGISTERED
PROFESSIONAL ENGINEER

PALACE WAY DEVELOPMENT

Location:
4087 ST. HIGHWAY 21
San Marcos, Texas

TRINITY GROUP
A REAL ESTATE SERVICE COMPANY
658 MEYER RD. NEW BRAUNFELS, TX 78638
PH. (830) 303-3283, FAX (972) 842-7001
www.trinitycompanies.biz trinity@trinitycompanies.biz
"We Help Build Your Future"

PROJECT NO.
12418

REVISIONS

TX Firm # 12656

DATE
Feb 2020

SCALE
3/32" = 1'

DRAWN BY
D. Aldana

DESIGNED BY
Trinity Group

CHECKED BY
D. Joyner

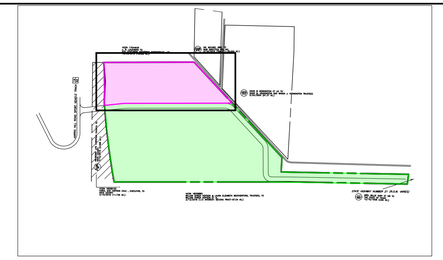
ZONING PLAN

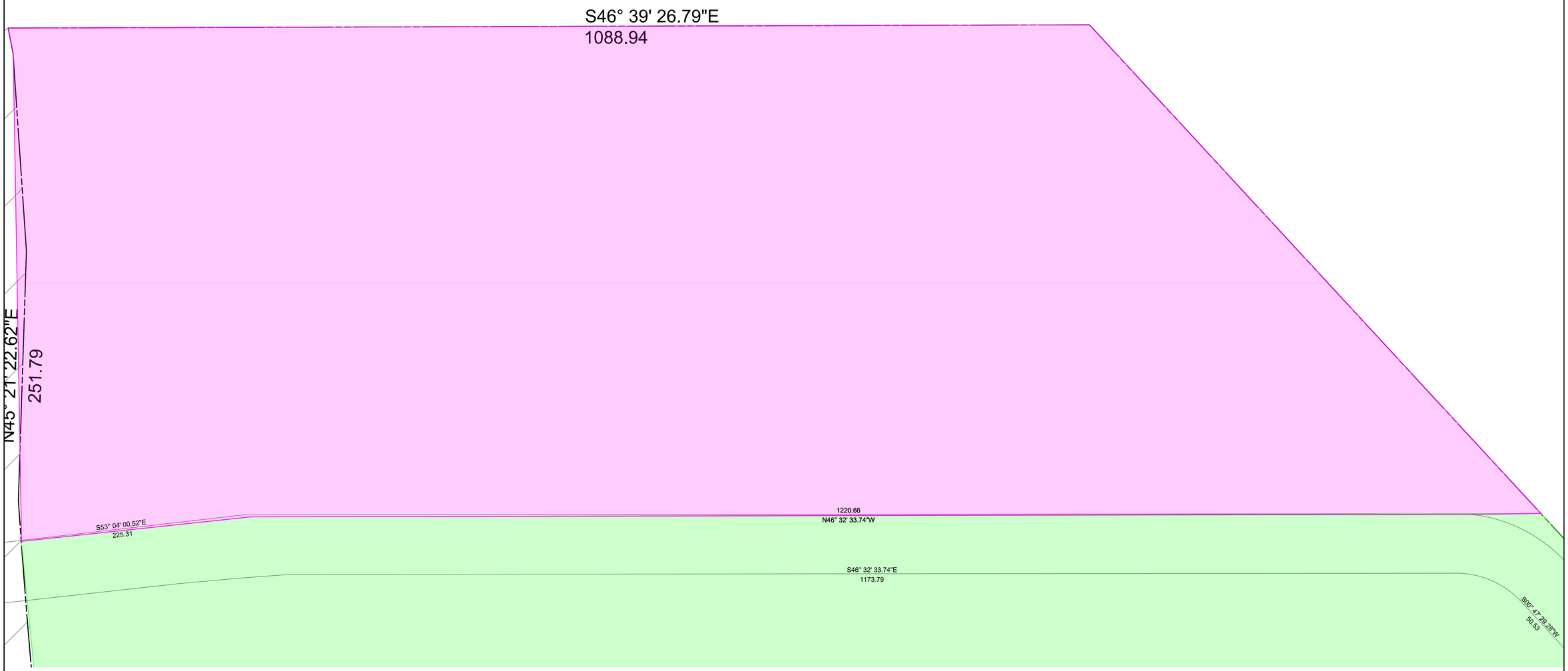
Unless otherwise noted this is scaled to fit a 24x 36" sheet.

SHEET NO.
C-01

VERSION A

PROPOSED ZONING	
DESCRIPTION	AREA
TOTAL LOT	59.59ac
INDUSTRIAL PORTION	14.90ac





0 100 200 Feet

DAVID L. JOYNER 79560 STATE OF TEXAS REGISTERED PROFESSIONAL ENGINEER

PALACE WAY DEVELOPMENT

Location:
4087 ST. HIGHWAY 21
San Marcos, Texas

TRINITY GROUP
A REAL-ESTATE SERVICE COMPANY
838 MEYER RD, NEW BRAUNFELS, TX 78638
PH. (830) 303-3283, FAX (972) 842-7001
www.trinitycompanies.biz trinity@trinitycompanies.biz
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PROJECT NO.
12418

REVISIONS

TX Firm # 12656

DATE
Feb 2020

SCALE
¼" = 1'

DRAWN BY
D. Aldana

DESIGNED BY
Trinity Group

CHECKED BY
D. Joyner

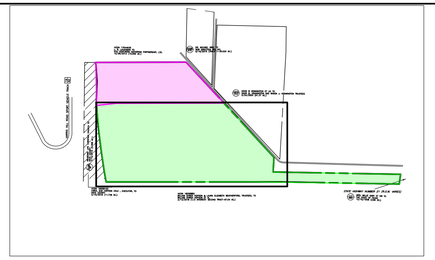
PROPOSED INDUSTRIAL ZONING

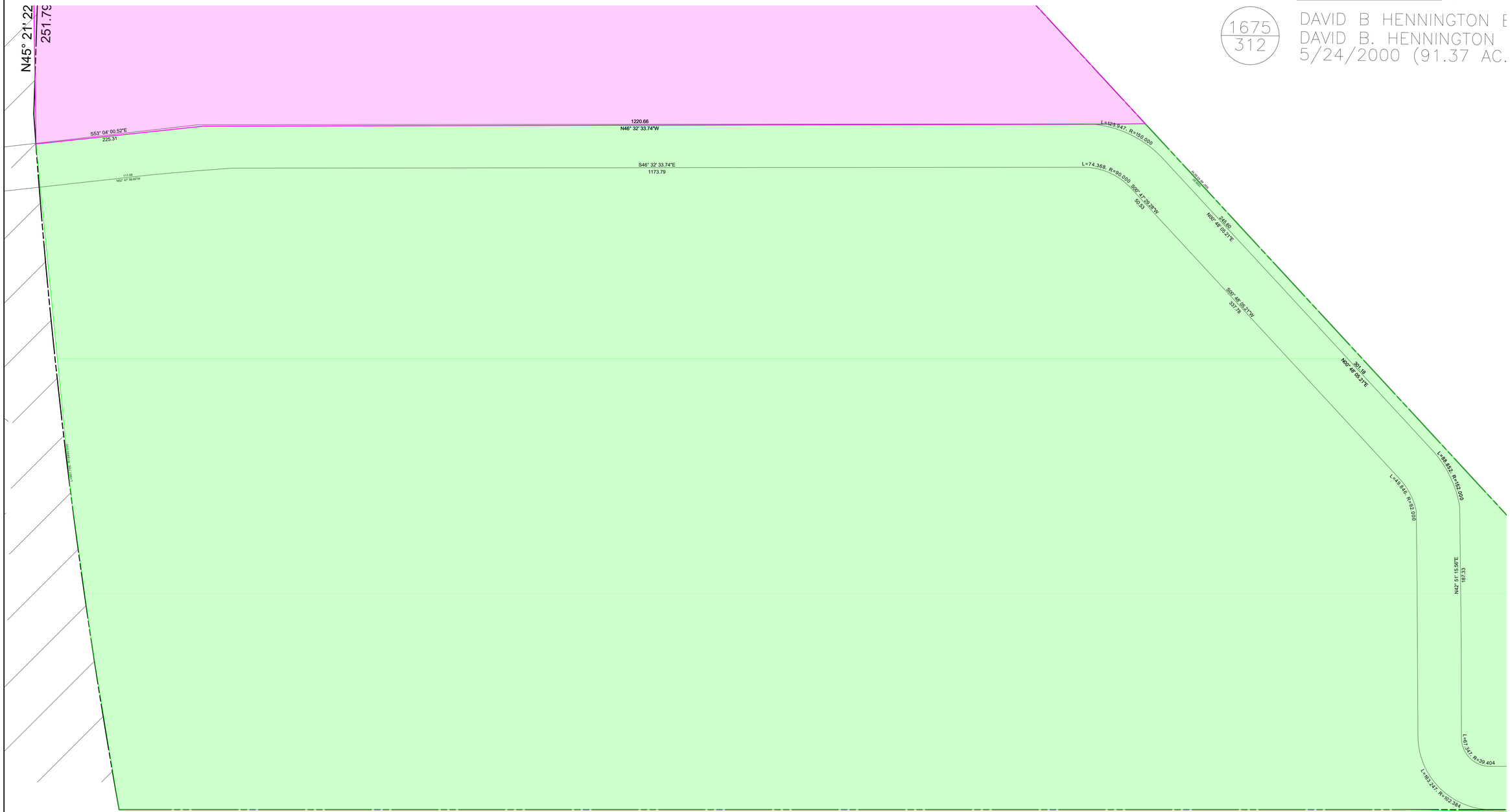
Unless otherwise noted this is scaled to fit a 24"x 36" sheet.

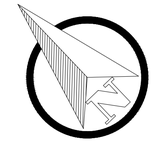
SHEET NO.
C-02

VERSION A

PROPOSED ZONING	
DESCRIPTION	AREA
TOTAL LOT	59.59ac
RESIDENTIAL PORTION	44.69ac







0 100 200 Feet

1675
312

DAVID B HENNINGTON E
DAVID B. HENNINGTON
5/24/2000 (91.37 AC.

PALACE WAY DEVELOPMENT

Location:
4087 ST. HIGHWAY 21
San Marcos, Texas

TRINITY GROUP
A REAL ESTATE SERVICE COMPANY
838 MEYER RD. NEW BRAUNFELS, TX 78638
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PROJECT NO.
12418

REVISIONS

TX Firm # 12656

DATE
Feb 2020

SCALE
3/16" = 1'

DRAWN BY
D. Aldana

DESIGNED BY
Trinity Group

CHECKED BY
D. Joyner

PROPOSED RESIDENTIAL ZONING

Unless otherwise noted this is scaled to fit a 24"x 36" sheet.

SHEET NO.
C-03

VERSION A

ANNEXATION APPLICATION

Updated: October, 2018

Case # AN-____-____

CONTACT INFORMATION

Applicant's Name	James Glasgow	Property Owner	Palace Way Partners llc
Applicant's Mailing Address	6531 fox run San Antonio, Texas 78233	Owner's Mailing Address	6531 fox run San Antonio, Texas 78233
Applicant's Phone #	210-413-7230	Owner's Phone #	6531 fox runSan Antonio, Texas 78233
Applicant's Email	jeglasgow@yahoo.com	Owner's Email	6531 fox runSan Antonio, Texas 78233

PROPERTY INFORMATION

Is the property adjacent to city limits ☑ YES ■ NO

Is the property less than ½ mile in width ■ YES ☐ NO

Are there less than 3 qualified voters living on the property ■ YES ☐ NO

Proposed Use: Manyfactured housing **Proposed Zoning:** MH and LI

Reason for Annexation / Other Considerations: _____

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee $1,151 Technology Fee $12 *TOTAL COST $1,163*

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

APPLY ONLINE – WWW.MYGOVERNMENTONLINE.ORG/

PROPERTY OWNER AUTHORIZATION

I, James E Glasgow (owner) acknowledge that I am the rightful owner of the property located at 6531 Fox Run (address).

I hereby authorize _____(agent name) to file this application for _____ (application type), and, if necessary, to work with the Responsible Official / Department on my behalf throughout the process.

Signature of Property Owner: Jim E Glasgow Date: 3/7/20

Printed Name: Jim Glasgow

Signature of Agent: _____ Date: _____

Printed Name: _____

File #: ID#20-204, **Version:** 1

AGENDA CAPTION:

Executive Session in accordance with the following Government Code Sections:

A. §551.071 - Consultation with Attorney regarding: Legal considerations of an anti-discrimination ordinance; and acquisition of property in Downtown San Marcos for public use

B. Section § 551.072 - Real Property: to receive a staff briefing and deliberation regarding acquisition of property in Downtown San Marcos for public use

Meeting date: 4/21/2020

Department: City Clerk's Office on behalf of the City Council

Amount & Source of Funding

Funds Required: Click or tap here to enter text.

Account Number: Click or tap here to enter text.

Funds Available: Click or tap here to enter text.

Account Name: Click or tap here to enter text.

Fiscal Note:

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

City Council Goal: [Please select goal from dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Click or tap here to enter text.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Click or tap here to enter text.

File #: ID#20-203, **Version:** 1

AGENDA CAPTION:
Consider action, by motion, regarding the following Executive Session items held during the Work Session:

A. §551.071 - Consultation with Attorney regarding: Legal considerations of an anti-discrimination ordinance; and acquisition of property in Downtown San Marcos for public use
B. Section § 551.072 - Real Property: to receive a staff briefing and deliberation regarding acquisition of property in Downtown San Marcos for public use

Meeting date: 4/21/2020

Department: City Clerk's Office on behalf of the City Council

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

Fiscal Note:

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

City Council Goal: [Please select goal from dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

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

☐ Economic Development - Choose an item.

☐ Environment & Resource Protection - Choose an item.

☐ Land Use - Choose an item.

☐ Neighborhoods & Housing - Choose an item.

☐ Parks, Public Spaces & Facilities - Choose an item.

☐ Transportation - Choose an item.

☐ Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

Click or tap here to enter text.

Council Committee, Board/Commission Action:

Click or tap here to enter text.

Alternatives:

Click or tap here to enter text.

Recommendation:

Click or tap here to enter text.