



**TAKE NOTICE THAT A REGULAR MEETING
OF THE BOARD OF COMMISSIONERS
OF THE CITY OF PHARR, TEXAS
WILL BE HELD AT CITY HALL, COMMISSIONERS' ROOM,
118 S. CAGE BLVD., 2ND FLOOR, PHARR, TEXAS
COMMENCING AT 4:00 PM ON
MONDAY, MAY 18, 2020**

The City of Pharr has called this meeting as allowed pursuant to Texas law, city charter, and city ordinances. The governing body may recess from day to day when it does not complete consideration of a particularly long subject as authorized by law. All persons desiring to address the governing body must register with the presiding city clerk prior to the scheduled meeting.

In accordance with social distancing guidelines, the City Commission meeting will not be open to the public, except for individuals who have elected to appear in person for Public Testimony. The meeting will be via videoconference and streamed live at www.pharr-tx.gov

1. CALL TO ORDER:

A) Roll call and possible action on the excusing of any absent member of the governing board.

B) Pledge of Allegiance/Invocation.

2. PUBLIC TESTIMONY: (Ordinance No. O-2019-45). *A person intending on addressing the governing body may speak at a scheduled meeting of the governing body following registration with the presiding clerk and prior to the scheduled meeting. A registered speaker may speak only on items on the agenda and may not exceed 1.5 minutes when addressing the board regarding an agenda item. A registered speaker may not donate time to another speaker. A sign-in form for public testimony shall be promulgated by the presiding clerk and be made available at the city clerk's office. A person may sign up for public testimony beginning at the time the agenda is posted for the meeting. A person may not sign up later than one hour before the posted meeting is scheduled to begin. No registered speaker may be allowed to speak regarding an item once the public testimony portion of the agenda has ended.*

3. CITY MANAGER'S REPORTS: (City Manager's Administrative Reports and discussion, if any, with governing body. The City Manager may also assign a designated spokesperson for any particular listed topic)

A) Submission of Sales Tax Collection Report for May 2020.

AGENDA REGULAR MEETING
May 18, 2020

B) Submission of Property Tax Collection Report for April 2020.

C) Submission of Financial Quarterly Report for period ending March 2020.

D) Submission of 2nd Quarter 2019-2020 City of Pharr Investment Report.

4. CONSENT AGENDA: *(All items listed under consent Agenda are considered to be routine and non-controversial by the Governing Body and will be enacted by one motion. Any Commissioner may remove items from the consent agenda by making such request prior to a motion and vote on the Consent Agenda)*

A) Approval of Minutes for May 4, 2020 Regular Called Meeting.
(ADMINISTRATION)

B) PLATS:

1. CLH Engineering, Inc., representing Jose M. Guerra Cantu, Managing Member for KASAVA, L.L.C, A Texas Limited Liability Company, is requesting final plat approval of the proposed JG Customs Forwarding 2 Subdivision. The property is legally described as being the west 9.93 acres of land of Lot 8, Closner Subdivision of Porcion, Pharr, Hidalgo County, Texas. The property is located within the 1300 Block of East Military Highway. **SUB#190203** (DEVELOPMENT SERVICES)

REGULAR AGENDA - OPEN SESSION:

5. ORDINANCES AND RESOLUTIONS:

A) Consideration and action, if any, on Ordinance waiving renewal fees for conditional use permits for on-premise consumption and health permit renewals. (DEVELOPMENT SERVICES)

B) Consideration and action, if any, on Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Commercial Vehicle Staging Area, CSJ: 0921-02-423.
(TABLED) (ENGINEERING)

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C) Consideration and action, if any, on Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Dock Expansion Phase I (Dry Units) at Pharr International Bridge, CSJ: 0921-02-424. **(TABLED)** (ENGINEERING)

D) Consideration and action, if any, on Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Dock Expansion Phase II (Cold Units) at Pharr International Bridge, CSJ: 0921-02-425. **(TABLED)** (ENGINEERING)

E) Consideration and action, if any, on Resolution appointing/re-appointing one member to the Community Development Council. (GMCD)

F) Consideration and action, if any, on Resolution entering into an agreement with the Texas Department of Transportation for the closure of U.S. 281 (Cage Blvd.) from Old Business 83 to Kelly Ave. for the installation of various decorative light poles in front of City Hall beginning the week of May 25, 2020. (ENGINEERING)

6. ADMINISTRATIVE:

A) Consideration and action authorizing City Manager to advertise to Competitive Sealed Proposals (CSP) for the City of Pharr International Bridge Facility Expansion and Renovations Phase II. (Project No. 1920-70-510-C009-775) (ENGINEERING)

B) Consideration and action, if any, authorizing the City Manager to solicit a scope and fee proposal from Halff Associates Inc., and negotiate and enter into a contract for the Master Planning and design of Operational Improvements at the Pharr International Bridge. (Project No.1920-01-528-8013-001) (Rotation List) (ENGINEERING)

C) Presentation and discussion on Pharr COVID-19 Disaster Recovery Center. (ADMINISTRATION)

D) Consideration and action, if any, authorizing City Manager to negotiate and enter into a contract with GDJ Engineering, from the list of qualified firms, to provide an assessment and project development of a priority plan for the City's transportation projects. (ADMINISTRATION)

7. CONTRACTS/AGREEMENTS:

A) Consideration and action, if any, authorizing City Manager to negotiate and enter into a contract with Millennium Engineers Group, Inc. for Construction Material Testing Services for the Pharr International Bridge FY15 DAP Northbound Lane Project (CSJ: 0921-02-385) and 2nd BSIF Exit Project (CSJ: 0921-02-383). (ENGINEERING)

B) Consideration and action, if any, on Interlocal Agreement between City of Pharr and City of San Juan for dual certification of Sanitary Sewer services. (ADMINISTRATION)

C) Consideration and action, if any, on Interlocal Agreement between City of Pharr and City of San Juan for paving and traffic loops. (PUBLIC WORKS)

D) Consideration and action, if any, authorizing City Manager to enter into a contract with Kronos SaaS, Inc. for subscription services for the Workforce Ready cloud time and attendance software. (Project # 1920-01-518-S038-001) (IT)

E) Consideration and action, if any, on entering into an enterprise agreement with Charter Communications Operating, LLC "Spectrum" for City, high definition public access channel. (Project # 1920-01-518-S039-001) (IT)

F) Consideration and action, if any, on final close out and amendment for additional scope and time for Newcome Park Phase I and II (ADMINISTRATION)

G) Consideration and action, if any, on final close out and amendment for additional scope and time for the Jose "Pepe" Salinas Civic Center. (ADMINISTRATION)

8. LEGAL:

A) Consultation with City Attorney on D&M Ventures, LLC v. City of Pharr, Texas, Cause No. C-3205-16-E, in the 275th Judicial District Court of Hidalgo County, Texas. (LEGAL)

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9. CLOSED SESSION: *In accordance with Chapter 551 of the Texas Gov't. Code, the Pharr Board of Commissioners hereby gives notice that it may meet in a closed (non-public) executive session to discuss the items listed on the public portion of the meeting agenda in accordance with the following below:*

Pursuant to Section 551.071, the Board may convene in a closed, non-public meeting with its attorney and discuss any matters related to **legal advice on pending or contemplated litigation, settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.072, the Board may convene in a closed, non-public meeting to discuss any matters related to **real property and deliberate the purchase, exchange, lease, or value of real property as such would be detrimental to negotiations between the City and a third party in an open meeting.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.074, the Board may convene in a closed, non-public meeting to discuss any matters related to **appointment, employment, evaluation, reassignment, duties and discipline or dismissal of a public officer or employee and to hear any complaints or charges against an officer or employee.** The City and its attorney may also discuss such issues with the appropriate staff including members so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.076, the Board may convene in a closed, non-public meeting to discuss any matters on the **deployment, or specific occasions for implementation, of security personnel or devices.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.084, the Board may convene in a closed, non-public meeting to discuss any matters involving an **investigation and may exclude a witness from hearing during the examination of another witness in the investigation.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.087, the Board may convene in a closed, non-public meeting to discuss any matters regarding **economic development issues.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

10. RECONVENE: *into Regular Session and consider action, if necessary, on any items(s) discussed in closed session.*

11. ADJOURNMENT:

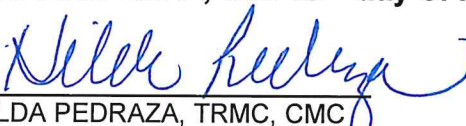
NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Clerk's Office at 956/402-4100 ext. 1003/1007 or FAX 956/702-5313 or E-mail hilda.pedraza@pharr-tx.gov or imelda.barrera@pharr-tx.gov for further information. Braille is not available.

I, the undersigned authority, do hereby certify that the above notice of said Regular Meeting of the City Commission of the City of Pharr was posted on the bulletin board at City Hall and on the City's web page at www.pharr-tx.gov. This Notice was posted on the 15th day of May 2020 at 3:45 p.m. and will remain posted continuously for at least 72 hours preceding the scheduled time of said Meeting, in compliance with Chapter 551 of the Government Code, Vernon's Texas Codes, Annotated (Open Meetings Act).



WITNESS MY HAND AND SEAL, this 15th day of May 2020


HILDA PEDRAZA, TRMC, CMC
CITY CLERK

I certify that the attached notice and agenda of items to be considered by the City Commission was removed from the bulletin board of City Hall on the ____ day of _____, 20__ by,

Title: _____



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 3.A.

DATE SUBMITTED: May 13, 2020

MEETING DATE: May 18, 2020

FROM: Karla Moya, Finance Director

DEPARTMENT: Finance

DIRECTOR:

Agenda Item: Submission of Sales Tax Collection Report for May 2020.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue:

SALES TAX HIGHLIGHTS

City of Pharr shows an INCREASE of 2.84% YTD TRUE GROWTH compared to last Year 2019 and a decrease of -0.86% in collected payment compared to last May 2019.

Please feel free to contact me should the need arise, I am at extension 1907.

THANK YOU

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Karla Moya

Edward Wylie

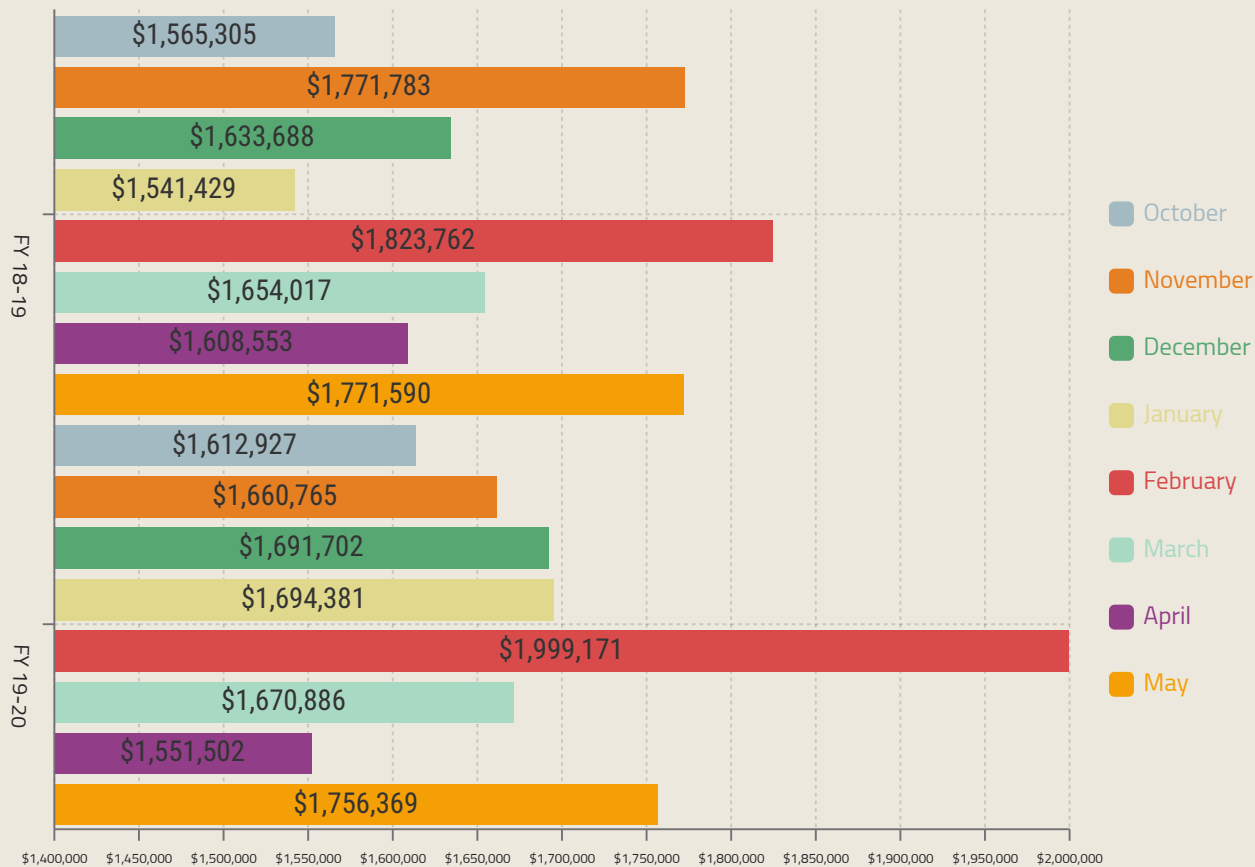
Created/Initiated - 5/13/2020

Final Approval - 5/15/2020

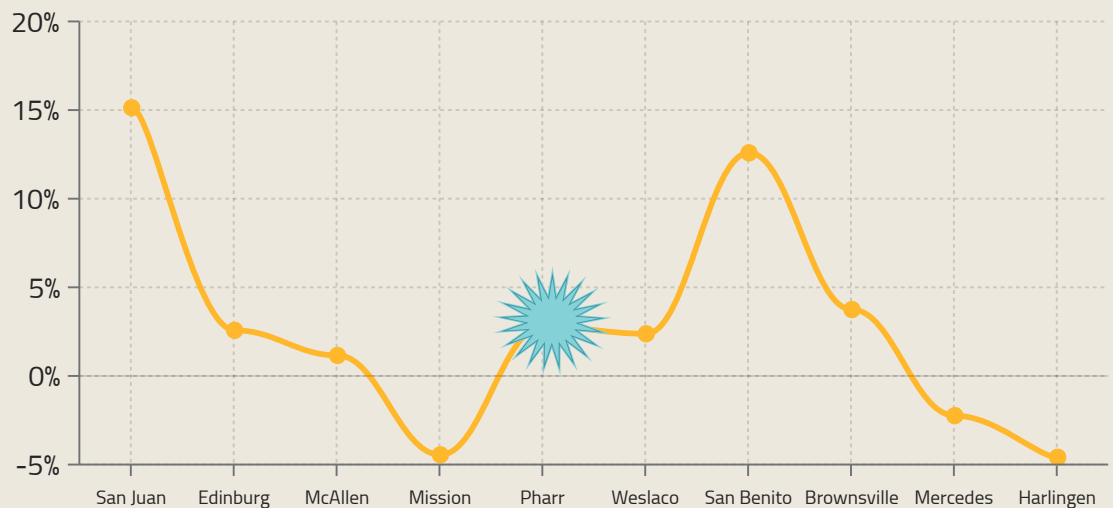
Sales Taxes Collection Snapshot-May 2020



2.84% Increase in Sales Tax from Last Year*



Ranked No. 4
compared to neighbor
Cities



*Excludes February 2019 One-Time Payment of \$636,901.



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 3.B.

DATE SUBMITTED: May 8, 2020

MEETING DATE: May 18, 2020

FROM: Karla Moya, Finance Director

DEPARTMENT: Finance

DIRECTOR:

Agenda Item: Submission of Property Tax Collection Report for April 2020.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Current Collections

Current Tax Collections as of April 2020 are \$20,544,098 or 91.61% collected out of this Year's Levy . This is -0.74 % lower than last year.

Delinquent Tax

Delinquent Tax Collections as of April 2020 are \$381,929 which is 15.07% collected out of previous year's tax rolls. This is a decrease of 2.24% compared to last year.

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Karla Moya
City Management Office

Created/Initiated - 5/8/2020
Final Approval - 5/15/2020

**PABLO "PAUL" VILLARREAL JR., ASSESSOR & COLLECTOR
CITY OF PHARR TAXES COLLECTED FOR:
APRIL 2020**

COMPARATIVE RATE OF COLLECTIONS

CITY OF PHARR CPR (33)	ORIGINAL TAX LEVY	COLLECTED TO DATE	DROPPED YRS AFTER PURGE	MODIF. TO DATE	TAXES OUTSTANDING	PERCENT 2019/2020	COLLECTED 2018/2019
2019 TAX ROLL	22,493,508.68	20,544,098.50	-	(67,909.23)	1,881,500.95	91.61%	92.71%
2018 & PRIOR YRS	2,556,147.78	381,929.38		(21,658.70)	2,152,559.70	15.07%	17.31%
ROLLBACK	96,895.20	160,976.85	-	72,072.94	7,991.29	95.27%	100.00%
TOTALS	25,146,551.66	21,087,004.73	-	(17,494.99)	4,042,051.94		

BREAKDOWN OF TAX COLLECTIONS AND FEES FOR THE MONTH OF APRIL 2020

	CITY OF PHARR	MONTHLY MODIFICATIONS
CURRENT YEAR-BASE TAX	312,855.60	CURRENT
CURRENT YEAR-P&I	30,818.27	
PRIOR YEARS-BASE TAX	28,179.93	PRIOR
PRIOR YEARS-P&I	9,725.59	
ROLLBACK	-	ROLLBACK
ROLLBACK P&I	-	
ATTORNEY FEES	5,084.89	- PURGED
TOTAL COLLECTIONS	386,664.28	-
LESS TRANSFERRED	253,011.59	
LESS IN TRANSIT	127,855.38	
LESS DUE TO HCAD COMM. FEE	9.31	
LESS DUE TO CO TREASURER	5,788.00	
BALANCE	-	

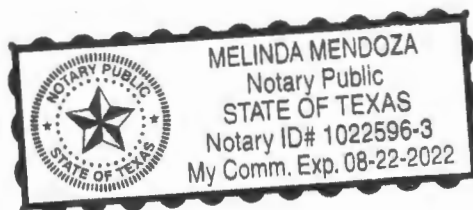
*****AFFIDAVIT*****

I, PABLO "PAUL" VILLARREAL JR., ASSESSOR-COLLECTOR OF TAXES FOR THE CITY OF PHARR, DO SOLEMNLY SWEAR THAT THE ABOVE STATEMENT OF TAXES COLLECTED BY ME FOR THE MONTH OF APRIL 2020 IS CORRECT.

Pablo (Paul) Villarreal Jr.
ASSESSOR-COLLECTOR OF TAXES FOR CITY OF PHARR, TEXAS

SWORN AND SUBSCRIBED BEFORE ME THIS 8TH DAY OF MAY 2020 A.D.

Melinda Mendoza
NOTARY PUBLIC, HIDALGO COUNTY, TEXAS



PABLO "PAUL" VILLARREAL JR., ASSESSOR & COLLECTOR
CITY OF PHARR
TAX COLLECTION REPORT
FOR THE MONTH OF APRIL 2020

<u>AD VALOREM - CITY OF PHARR</u>	<u>2019-2020</u>	<u>2018-2019</u>	<u>DIFFERENCE</u>
<u>2019 CURRENT</u>			
ORIGINAL LEVY	22,493,508.68	19,278,100.58	3,215,408.10
MODIFICATIONS	(67,909.23)	(132,295.11)	64,385.88
CURRENT LEVY	22,425,599.45	19,145,805.47	3,279,793.98
CURRENT COLLECTIONS THIS MONTH	312,855.60	251,955.38	60,900.22
CURRENT COLLECTIONS TO DATE	20,544,098.50	17,750,121.36	2,793,977.14
OUTSTANDING TO DATE	1,881,500.95	1,395,684.11	485,816.84
PERCENT COLLECTED/ORIGINAL	91.33%	92.07%	-0.74%
PERCENT COLLECTED/MODIFIED	91.61%	92.71%	-1.10%
 TOTAL COLLECTIONS FISCAL YEAR	 20,544,098.50	 17,750,121.36	
 <u>DELINQUENT</u>			
ORIGINAL LEVY	2,556,147.78	2,534,188.08	21,959.70
MODIFICATIONS	(21,658.70)	(41,117.11)	19,458.41
DELINQUENT LEVY	2,534,489.08	2,493,070.97	41,418.11
DELINQUENT COLLECTIONS THIS MONTH	28,179.93	46,256.99	(18,077.06)
DELINQUENT COLLECTIONS TO DATE	381,929.38	431,529.29	(49,599.91)
OUTSTANDING TO DATE	2,152,559.70	2,061,541.68	91,018.02
PERCENT COLLECTED/ORIGINAL	14.94%	17.03%	-2.09%
PERCENT COLLECTED/MODIFIED	15.07%	17.31%	-2.24%
 TOTAL COLLECTIONS FISCAL YEAR	 381,929.38	 431,529.29	
 <u>ROLLBACK</u>			
ORIGINAL LEVY	96,895.20	13,987.55	82,907.65
MODIFICATIONS	72,072.94	22,843.79	49,229.15
ROLLBACK LEVY	168,968.14	36,831.34	132,136.80
ROLLBACK COLLECTIONS THIS MONTH	0.00	0.00	0.00
ROLLBACK COLLECTIONS TO DATE	160,976.85	36,831.34	124,145.51
OUTSTANDING TO DATE	7,991.29	0.00	7,991.29
PERCENT COLLECTED/ORIGINAL	166.14%	263.32%	-97.18%
PERCENT COLLECTED/MODIFIED	95.27%	100.00%	-4.73%
 TOTAL COLLECTIONS FISCAL YEAR	 160,976.85	 36,831.34	

PABLO (PAUL) VILLARREAL, JR., TAX ASSESSOR/COLLECTOR
CITY OF PHARR
TAX COLLECTIONS AS OF APRIL 2020

33

REPORT DATE	CURR BASE	CURR P&I	CURR RB	CURR RB P&I	PRIOR BASE	PRIOR P&I	PRIOR RB	RB P&I	ATTY FEES	ATTY RBFEEs	TOTAL	TRANSF.	DIFF.	DATE OF TRANSF.
1-Apr	49,360.98	4,417.35			773.39	322.75			151.75		55,026.22		55,026.22	
2-Apr	5,522.15	496.37			311.35	105.74			78.67		6,514.28		6,514.28	
3-Apr	6,029.01	446.46			1,447.55	550.24			298.14		8,771.40		8,771.40	
6-Apr	16,272.04	1,398.87			766.24	122.97			68.68		18,628.80		18,628.80	
7-Apr	5,649.31	577.30			697.45	324.72			142.30		7,391.08	90,543.78	(83,152.70)	15-Apr
8-Apr	9,046.44	856.68			1,520.14	430.04			292.51		12,145.81	12,145.81	0.00	15-Apr
9-Apr	8,167.13	786.27			307.90	98.70			78.20		9,438.20	9,438.20	-	16-Apr
13-Apr	8,410.81	907.47			805.09	259.83			155.14		10,538.34	10,538.34	(0.00)	17-Apr
14-Apr	4,907.37	464.75			306.37	199.99			26.96		5,905.44	5,905.44	-	20-Apr
15-Apr	6,304.70	591.40			843.52	454.34			179.72		8,373.68	8,373.68	(0.00)	21-Apr
16-Apr	11,663.94	1,213.60			1,488.47	475.77			292.78		15,134.56	15,134.56	0.00	22-Apr
17-Apr	5,784.47	579.84			890.54	524.71			177.47		7,957.03	7,957.03	0.00	23-Apr
20-Apr	11,584.13	1,154.96			1,820.78	788.42			372.55		15,720.84	15,720.84	-	24-Apr
21-Apr	15,215.44	1,558.82			1,421.82	523.48			284.70		19,004.26	19,004.26	0.00	27-Apr
22-Apr	16,277.03	1,722.22			1,405.13	515.63			318.71		20,238.72	20,238.72	-	28-Apr
23-Apr	14,606.82	1,430.30			1,192.58	335.97			261.21		17,826.88	17,826.88	(0.00)	29-Apr
24-Apr	14,826.27	1,461.58			2,988.58	645.21			262.41		20,184.05	20,184.05	-	30-Apr
27-Apr	15,573.46	1,649.79			1,729.99	544.62			288.31		19,786.17	19,786.17	0.00	1-May
28-Apr	14,236.81	1,538.83			1,212.70	478.96			241.48		17,708.78	17,708.78	-	4-May
29-Apr	12,625.32	1,084.41			1,643.90	666.58			346.56		16,366.77	16,366.77	(0.00)	5-May
30-Apr	60,791.97	6,481.00			4,606.44	1,356.92			766.64		74,002.97	73,993.66	9.31	8-May
											-		-	
											-		-	
											-		-	
TTL	312,855.60	30,818.27	0.00	0.00	28,179.93	9,725.59	0.00	0.00	5,084.89	0.00	386,664.28	380,866.97	5,797.31	

OVERALL TOTAL	386,664.28
LESS REFUNDS	0.00
LESS HCAD COMM FEES	9.31
LESS COMM/COST	5,788.00
BALANCE	380,866.97
LESS TRANSFERRED	253,011.59
LESS TRANSF IN TRANSIT	127,855.38
BALANCE PENDING	0.00

05/04/2020 18:21:51 3458076
 TC298-D SELECTION: SYSTEM
 RECEIPT DATE: ALL
 LOCATION: LOCATION NAME NOT FOUND

TAX COLLECTION SYSTEM
 DEPOSIT DISTRIBUTION
 FROM: 04/01/2020 THRU 04/30/2020
 JURISDICTION: 0033 CITY OF PHARR

PAGE: 36
 EXCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2019	M & O	.567100	247,241.41	.00	24,354.70	15,983.19-	255,612.92	458.51	.00	.00	272,054.62
	I & S	.150500	65,614.19	.00	6,463.57	4,241.69-	67,836.07	.00	.00	.00	72,077.76
	TOTAL	.717600	312,855.60	.00	30,818.27	20,224.88-	323,448.99	458.51	.00	.00	344,132.38
2018	M & O	.567100	13,185.11	.00	3,197.00	255.77-	16,126.34	2,480.55	.00	.00	18,862.66
	I & S	.081900	1,904.21	.00	461.73	36.94-	2,329.00	.00	.00	.00	2,365.94
	TOTAL	.649000	15,089.32	.00	3,658.73	292.71-	18,455.34	2,480.55	.00	.00	21,228.60
2017	M & O	.567100	5,668.34	.00	1,894.77	.00	7,563.11	1,073.90	.00	.00	8,637.01
	I & S	.081900	818.65	.00	273.58	.00	1,092.23	.00	.00	.00	1,092.23
	TOTAL	.649000	6,486.99	.00	2,168.35	.00	8,655.34	1,073.90	.00	.00	9,729.24
2016	M & O	.582100	2,899.45	.00	1,265.50	.00	4,164.95	554.93	.00	.00	4,719.88
	I & S	.071900	358.14	.00	156.30	.00	514.44	.00	.00	.00	514.44
	TOTAL	.654000	3,257.59	.00	1,421.80	.00	4,679.39	554.93	.00	.00	5,234.32
2015	M & O	.582100	1,167.72	.00	573.14	.00	1,740.86	195.76	.00	.00	1,936.62
	I & S	.071900	144.26	.00	70.78	.00	215.04	.00	.00	.00	215.04
	TOTAL	.654000	1,311.98	.00	643.92	.00	1,955.90	195.76	.00	.00	2,151.66
2014	M & O	.608100	563.10	.00	344.98	.00	908.08	108.65	.00	.00	1,016.73
	I & S	.071900	66.59	.00	40.79	.00	107.38	.00	.00	.00	107.38
	TOTAL	.680000	629.69	.00	385.77	.00	1,015.46	108.65	.00	.00	1,124.11
2013	M & O	.605000	372.68	.00	205.16	.00	577.84	32.19	.00	.00	610.03
	I & S	.075000	46.19	.00	25.43	.00	71.62	.00	.00	.00	71.62
	TOTAL	.680000	418.87	.00	230.59	.00	649.46	32.19	.00	.00	681.65
2012	M & O	.602600	72.39	.00	49.27	.00	121.66	8.67	.00	.00	130.33
	I & S	.077400	9.29	.00	6.33	.00	15.62	.00	.00	.00	15.62
	TOTAL	.680000	81.68	.00	55.60	.00	137.28	8.67	.00	.00	145.95
2011	M & O	.602100	93.74	.00	76.10	.00	169.84	21.09	.00	.00	190.93
	I & S	.077900	12.12	.00	9.84	.00	21.96	.00	.00	.00	21.96
	TOTAL	.680000	105.86	.00	85.94	.00	191.80	21.09	.00	.00	212.89
2010	M & O	.601800	163.48	.00	160.00	.00	323.48	44.58	.00	.00	368.06
	I & S	.078200	21.24	.00	20.79	.00	42.03	.00	.00	.00	42.03
	TOTAL	.680000	184.72	.00	180.79	.00	365.51	44.58	.00	.00	410.09
2009	M & O	.601800	47.61	.00	64.27	.00	111.88	18.97	.00	.00	130.85
	I & S	.078200	6.18	.00	8.35	.00	14.53	.00	.00	.00	14.53
	TOTAL	.680000	53.79	.00	72.62	.00	126.41	18.97	.00	.00	145.38
2008	M & O	.602940	121.88	.00	127.13	.00	249.01	26.99	.00	.00	276.00
	I & S	.078910	15.95	.00	16.64	.00	32.59	.00	.00	.00	32.59
	TOTAL	.681850	137.83	.00	143.77	.00	281.60	26.99	.00	.00	308.59

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TAX COLLECTION SYSTEM
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PAGE: 37
 EXCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2007	M & O	.596130	2.55	.00	4.06	.00	6.61	1.14	.00	.00	7.75
	I & S	.086990	.37	.00	.59	.00	.96	.00	.00	.00	.96
	TOTAL	.683120	2.92	.00	4.65	.00	7.57	1.14	.00	.00	8.71
2006	M & O	.593130	17.44	.00	27.03	.00	44.47	.00	.00	.00	44.47
	I & S	.089990	2.65	.00	4.10	.00	6.75	.00	.00	.00	6.75
	TOTAL	.683120	20.09	.00	31.13	.00	51.22	.00	.00	.00	51.22
2005	M & O	.593130	40.62	.00	74.34	.00	114.96	19.86	.00	.00	134.82
	I & S	.089990	6.16	.00	11.28	.00	17.44	.00	.00	.00	17.44
	TOTAL	.683120	46.78	.00	85.62	.00	132.40	19.86	.00	.00	152.26
2003	M & O	.596220	110.88	.00	165.43	.00	276.31	.00	.00	.00	276.31
	I & S	.086900	16.16	.00	24.11	.00	40.27	.00	.00	.00	40.27
	TOTAL	.683120	127.04	.00	189.54	.00	316.58	.00	.00	.00	316.58
2002	M & O	.590210	152.27	.00	224.34	.00	376.61	33.38	.00	.00	409.99
	I & S	.099790	25.74	.00	37.93	.00	63.67	.00	.00	.00	63.67
	TOTAL	.690000	178.01	.00	262.27	.00	440.28	33.38	.00	.00	473.66
2000	M & O	.533960	31.84	.00	70.35	.00	102.19	2.63	.00	.00	104.82
	I & S	.108350	6.47	.00	14.27	.00	20.74	.00	.00	.00	20.74
	TOTAL	.642310	38.31	.00	84.62	.00	122.93	2.63	.00	.00	125.56
1996	M & O	.516090	7.28	.00	17.10	.00	24.38	3.09	.00	.00	27.47
	I & S	.083910	1.18	.00	2.78	.00	3.96	.00	.00	.00	3.96
	TOTAL	.600000	8.46	.00	19.88	.00	28.34	3.09	.00	.00	31.43
ALL	M & O		271,959.79	.00	32,894.67	16,238.96-	288,615.50	5,084.89	.00	.00	309,939.35
ALL	I & S		69,075.74	.00	7,649.19	4,278.63-	72,446.30	.00	.00	.00	76,724.93
ALL	TOTAL		341,035.53	.00	40,543.86	20,517.59-	361,061.80	5,084.89	.00	.00	386,664.28
DLQ	M & O		24,718.38	.00	8,539.97	255.77-	33,002.58	4,626.38	.00	.00	37,884.73
DLQ	I & S		3,461.55	.00	1,185.62	36.94-	4,610.23	.00	.00	.00	4,647.17
DLQ	TOTAL		28,179.93	.00	9,725.59	292.71-	37,612.81	4,626.38	.00	.00	42,531.90
CURR	M & O		247,241.41	.00	24,354.70	15,983.19-	255,612.92	458.51	.00	.00	272,054.62
CURR	I & S		65,614.19	.00	6,463.57	4,241.69-	67,836.07	.00	.00	.00	72,077.76
CURR	TOTAL		312,855.60	.00	30,818.27	20,224.88-	323,448.99	458.51	.00	.00	344,132.38

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TAX COLLECTION SYSTEM
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 INCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2019	M & O	.567100	247,241.41	.00	24,354.70	15,983.19-	255,612.92	458.51	.00	.00	272,054.62
	I & S	.150500	65,614.19	.00	6,463.57	4,241.69-	67,836.07	.00	.00	.00	72,077.76
	TOTAL	.717600	312,855.60	.00	30,818.27	20,224.88-	323,448.99	458.51	.00	.00	344,132.38
2018	M & O	.567100	13,185.11	.00	3,197.00	255.77-	16,126.34	2,480.55	.00	.00	18,862.66
	I & S	.081900	1,904.21	.00	461.73	36.94-	2,329.00	.00	.00	.00	2,365.94
	TOTAL	.649000	15,089.32	.00	3,658.73	292.71-	18,455.34	2,480.55	.00	.00	21,228.60
2017	M & O	.567100	5,668.34	.00	1,894.77	.00	7,563.11	1,073.90	.00	.00	8,637.01
	I & S	.081900	818.65	.00	273.58	.00	1,092.23	.00	.00	.00	1,092.23
	TOTAL	.649000	6,486.99	.00	2,168.35	.00	8,655.34	1,073.90	.00	.00	9,729.24
2016	M & O	.582100	2,899.45	.00	1,265.50	.00	4,164.95	554.93	.00	.00	4,719.88
	I & S	.071900	358.14	.00	156.30	.00	514.44	.00	.00	.00	514.44
	TOTAL	.654000	3,257.59	.00	1,421.80	.00	4,679.39	554.93	.00	.00	5,234.32
2015	M & O	.582100	1,167.72	.00	573.14	.00	1,740.86	195.76	.00	.00	1,936.62
	I & S	.071900	144.26	.00	70.78	.00	215.04	.00	.00	.00	215.04
	TOTAL	.654000	1,311.98	.00	643.92	.00	1,955.90	195.76	.00	.00	2,151.66
2014	M & O	.608100	563.10	.00	344.98	.00	908.08	108.65	.00	.00	1,016.73
	I & S	.071900	66.59	.00	40.79	.00	107.38	.00	.00	.00	107.38
	TOTAL	.680000	629.69	.00	385.77	.00	1,015.46	108.65	.00	.00	1,124.11
2013	M & O	.605000	372.68	.00	205.16	.00	577.84	32.19	.00	.00	610.03
	I & S	.075000	46.19	.00	25.43	.00	71.62	.00	.00	.00	71.62
	TOTAL	.680000	418.87	.00	230.59	.00	649.46	32.19	.00	.00	681.65
2012	M & O	.602600	72.39	.00	49.27	.00	121.66	8.67	.00	.00	130.33
	I & S	.077400	9.29	.00	6.33	.00	15.62	.00	.00	.00	15.62
	TOTAL	.680000	81.68	.00	55.60	.00	137.28	8.67	.00	.00	145.95
2011	M & O	.602100	93.74	.00	76.10	.00	169.84	21.09	.00	.00	190.93
	I & S	.077900	12.12	.00	9.84	.00	21.96	.00	.00	.00	21.96
	TOTAL	.680000	105.86	.00	85.94	.00	191.80	21.09	.00	.00	212.89
2010	M & O	.601800	163.48	.00	160.00	.00	323.48	44.58	.00	.00	368.06
	I & S	.078200	21.24	.00	20.79	.00	42.03	.00	.00	.00	42.03
	TOTAL	.680000	184.72	.00	180.79	.00	365.51	44.58	.00	.00	410.09
2009	M & O	.601800	47.61	.00	64.27	.00	111.88	18.97	.00	.00	130.85
	I & S	.078200	6.18	.00	8.35	.00	14.53	.00	.00	.00	14.53
	TOTAL	.680000	53.79	.00	72.62	.00	126.41	18.97	.00	.00	145.38
2008	M & O	.602940	121.88	.00	127.13	.00	249.01	26.99	.00	.00	276.00
	I & S	.078910	15.95	.00	16.64	.00	32.59	.00	.00	.00	32.59
	TOTAL	.681850	137.83	.00	143.77	.00	281.60	26.99	.00	.00	308.59

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TAX COLLECTION SYSTEM
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 INCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2007	M & O	.596130	2.55	.00	4.06	.00	6.61	1.14	.00	.00	7.75
	I & S	.086990	.37	.00	.59	.00	.96	.00	.00	.00	.96
	TOTAL	.683120	2.92	.00	4.65	.00	7.57	1.14	.00	.00	8.71
2006	M & O	.593130	17.44	.00	27.03	.00	44.47	.00	.00	.00	44.47
	I & S	.089990	2.65	.00	4.10	.00	6.75	.00	.00	.00	6.75
	TOTAL	.683120	20.09	.00	31.13	.00	51.22	.00	.00	.00	51.22
2005	M & O	.593130	40.62	.00	74.34	.00	114.96	19.86	.00	.00	134.82
	I & S	.089990	6.16	.00	11.28	.00	17.44	.00	.00	.00	17.44
	TOTAL	.683120	46.78	.00	85.62	.00	132.40	19.86	.00	.00	152.26
2003	M & O	.596220	110.88	.00	165.43	.00	276.31	.00	.00	.00	276.31
	I & S	.086900	16.16	.00	24.11	.00	40.27	.00	.00	.00	40.27
	TOTAL	.683120	127.04	.00	189.54	.00	316.58	.00	.00	.00	316.58
2002	M & O	.590210	152.27	.00	224.34	.00	376.61	33.38	.00	.00	409.99
	I & S	.099790	25.74	.00	37.93	.00	63.67	.00	.00	.00	63.67
	TOTAL	.690000	178.01	.00	262.27	.00	440.28	33.38	.00	.00	473.66
2000	M & O	.533960	31.84	.00	70.35	.00	102.19	2.63	.00	.00	104.82
	I & S	.108350	6.47	.00	14.27	.00	20.74	.00	.00	.00	20.74
	TOTAL	.642310	38.31	.00	84.62	.00	122.93	2.63	.00	.00	125.56
1996	M & O	.516090	7.28	.00	17.10	.00	24.38	3.09	.00	.00	27.47
	I & S	.083910	1.18	.00	2.78	.00	3.96	.00	.00	.00	3.96
	TOTAL	.600000	8.46	.00	19.88	.00	28.34	3.09	.00	.00	31.43
ALL	M & O		271,959.79	.00	32,894.67	16,238.96-	288,615.50	5,084.89	.00	.00	309,939.35
ALL	I & S		69,075.74	.00	7,649.19	4,278.63-	72,446.30	.00	.00	.00	76,724.93
ALL	TOTAL		341,035.53	.00	40,543.86	20,517.59-	361,061.80	5,084.89	.00	.00	386,664.28
DLQ	M & O		24,718.38	.00	8,539.97	255.77-	33,002.58	4,626.38	.00	.00	37,884.73
DLQ	I & S		3,461.55	.00	1,185.62	36.94-	4,610.23	.00	.00	.00	4,647.17
DLQ	TOTAL		28,179.93	.00	9,725.59	292.71-	37,612.81	4,626.38	.00	.00	42,531.90
CURR	M & O		247,241.41	.00	24,354.70	15,983.19-	255,612.92	458.51	.00	.00	272,054.62
CURR	I & S		65,614.19	.00	6,463.57	4,241.69-	67,836.07	.00	.00	.00	72,077.76
CURR	TOTAL		312,855.60	.00	30,818.27	20,224.88-	323,448.99	458.51	.00	.00	344,132.38

TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 04/01/2020 TO 04/30/2020

EXCLUDES AG ROLLBACK

FISCAL START: 10/01/2019 END: 09/30/2020 JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
	-----	-----	-----	-----	-----	-----
CURRENT YEAR	3,177,515,281	9,338,232-	3,168,177,049	00.717600	22,425,599.45	24,125
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
	-----	-----	-----	-----	-----	-----	-----	-----
2019	22,493,508.68	.00	67,909.23-	312,855.60	20,544,098.50	1,881,500.95	91.61	0.00
2018	727,431.42	.00	12,432.30-	15,089.32	247,197.53	467,801.59	34.57	160.82-
2017	330,112.81	.00	6,503.55-	6,486.99	57,151.35	266,457.91	17.66	160.82-
2016	232,755.89	.00	928.32-	3,257.59	28,949.08	202,878.49	12.49	155.99-
2015	211,032.27	.00	846.77-	1,311.98	19,680.55	190,504.95	9.36	155.99-
2014	129,257.53	.00	410.92-	629.69	9,676.78	119,169.83	7.51	162.19-
2013	97,825.34	.00	162.19-	418.87	4,008.55	93,654.60	4.10	162.19-
2012	94,051.99	.00	162.19-	81.68	2,720.21	91,169.59	2.90	162.19-
2011	85,836.93	.00	162.19-	105.86	1,968.90	83,705.84	2.30	162.19-
2010	82,281.11	.00	50.27-	184.72	1,934.87	80,295.97	2.35	50.27-
2009	79,251.23	.00	0.00	53.79	1,495.90	77,755.33	1.89	0.00
2008	63,695.43	.00	0.00	137.83	642.82	63,052.61	1.01	0.00
2007	57,133.13	.00	0.00	2.92	1,080.40	56,052.73	1.89	0.00
2006	53,739.43	.00	0.00	20.09	915.96	52,823.47	1.70	0.00
2005	48,478.67	.00	0.00	46.78	1,792.87	46,685.80	3.70	0.00
2004	47,876.31	.00	0.00	0.00	433.06	47,443.25	.90	0.00
2003	39,198.36	.00	0.00	127.04	497.80	38,700.56	1.27	0.00
2002	33,960.08	.00	0.00	178.01	302.04	33,658.04	.89	0.00
2001	25,340.86	.00	0.00	0.00	262.65	25,078.21	1.04	0.00
2000	22,184.32	.00	0.00	38.31	223.84	21,960.48	1.01	0.00
1999	17,653.20	.00	0.00	0.00	508.73	17,144.47	2.88	0.00
1998	77,051.47	.00	0.00	8.46	485.49	76,565.98	.63	0.00
****	25,049,656.46	.00	89,567.93-	341,035.53	20,926,027.88	4,034,060.65		1,332.65-

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TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
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	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
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CURRENT YEAR	0	0	0	00.649000	21,811.72	5
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE COLL % YTD UNCOLL

2018	5,962.69	.00	15,849.03	0.00	17,809.00	4,002.72 81.65 0.00
2017	17,255.13	.00	12,639.48	0.00	28,996.78	897.83 97.00 0.00
2016	25,390.50	.00	13,507.75	0.00	37,938.12	960.13 97.53 0.00
2015	26,920.48	.00	14,339.30	0.00	40,243.99	1,015.79 97.54 0.00
2014	21,366.40	.00	15,737.38	0.00	35,988.96	1,114.82 97.00 0.00
2013	0.00	.00	0.00	0.00	0.00	0.00 0.00 0.00
****	96,895.20	.00	72,072.94	0.00	160,976.85	7,991.29 0.00

TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 04/01/2020 TO 04/30/2020

FISCAL START: 10/01/2019 END: 09/30/2020 JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
	-----	-----	-----	-----	-----	-----
CURRENT YEAR	3,177,515,281	9,338,232-	3,168,177,049	00.717600	22,425,599.45	24,125
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
2019	22,493,508.68	.00	67,909.23-	312,855.60	20,544,098.50	1,881,500.95	91.61	0.00
2018	733,394.11	.00	3,416.73	15,089.32	265,006.53	471,804.31	35.97	160.82-
2017	347,367.94	.00	6,135.93	6,486.99	86,148.13	267,355.74	24.37	160.82-
2016	258,146.39	.00	12,579.43	3,257.59	66,887.20	203,838.62	24.71	155.99-
2015	237,952.75	.00	13,492.53	1,311.98	59,924.54	191,520.74	23.83	155.99-
2014	150,623.93	.00	15,326.46	629.69	45,665.74	120,284.65	27.52	162.19-
2013	97,825.34	.00	162.19-	418.87	4,008.55	93,654.60	4.10	162.19-
2012	94,051.99	.00	162.19-	81.68	2,720.21	91,169.59	2.90	162.19-
2011	85,836.93	.00	162.19-	105.86	1,968.90	83,705.84	2.30	162.19-
2010	82,281.11	.00	50.27-	184.72	1,934.87	80,295.97	2.35	50.27-
2009	79,251.23	.00	0.00	53.79	1,495.90	77,755.33	1.89	0.00
2008	63,695.43	.00	0.00	137.83	642.82	63,052.61	1.01	0.00
2007	57,133.13	.00	0.00	2.92	1,080.40	56,052.73	1.89	0.00
2006	53,739.43	.00	0.00	20.09	915.96	52,823.47	1.70	0.00
2005	48,478.67	.00	0.00	46.78	1,792.87	46,685.80	3.70	0.00
2004	47,876.31	.00	0.00	0.00	433.06	47,443.25	.90	0.00
2003	39,198.36	.00	0.00	127.04	497.80	38,700.56	1.27	0.00
2002	33,960.08	.00	0.00	178.01	302.04	33,658.04	.89	0.00
2001	25,340.86	.00	0.00	0.00	262.65	25,078.21	1.04	0.00
2000	22,184.32	.00	0.00	38.31	223.84	21,960.48	1.01	0.00
1999	17,653.20	.00	0.00	0.00	508.73	17,144.47	2.88	0.00
1998	77,051.47	.00	0.00	8.46	485.49	76,565.98	.63	0.00
****	25,146,551.66	.00	17,494.99-	341,035.53	21,087,004.73	4,042,051.94		1,332.65-

TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 04/01/2020 TO 04/30/2020

EXCLUDES AG ROLLBACK

JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
CURRENT YEAR	3,177,515,281	9,338,232-	3,168,177,049	0.717600	22,425,599.45	24,125

YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
2019	22,493,508.68	.00	67,909.23-	312,855.60	20,544,098.50	1,881,500.95	91.61	0.00
	ADJUSTMENT REFUNDS	.00	18,145.52-					
2018	727,431.42	.00	12,432.30-	15,089.32	247,197.53	467,801.59	34.57	160.82-
	ADJUSTMENT REFUNDS	.00	7,896.35-					
2017	330,112.81	.00	6,503.55-	6,486.99	57,151.35	266,457.91	17.66	160.82-
	ADJUSTMENT REFUNDS	.00	5,108.61-					
2016	232,755.89	.00	928.32-	3,257.59	28,949.08	202,878.49	12.49	155.99-
	ADJUSTMENT REFUNDS	.00	63.29-					
2015	211,032.27	.00	846.77-	1,311.98	19,680.55	190,504.95	9.36	155.99-
	ADJUSTMENT REFUNDS	.00	82.10-					
2014	129,257.53	.00	410.92-	629.69	9,676.78	119,169.83	7.51	162.19-
2013	97,825.34	.00	162.19-	418.87	4,008.55	93,654.60	4.10	162.19-
2012	94,051.99	.00	162.19-	81.68	2,720.21	91,169.59	2.90	162.19-
2011	85,836.93	.00	162.19-	105.86	1,968.90	83,705.84	2.30	162.19-
2010	82,281.11	.00	50.27-	184.72	1,934.87	80,295.97	2.35	50.27-
2009	79,251.23	.00	0.00	53.79	1,495.90	77,755.33	1.89	0.00
2008	63,695.43	.00	0.00	137.83	642.82	63,052.61	1.01	0.00
2007	57,133.13	.00	0.00	2.92	1,080.40	56,052.73	1.89	0.00
2006	53,739.43	.00	0.00	20.09	915.96	52,823.47	1.70	0.00
2005	48,478.67	.00	0.00	46.78	1,792.87	46,685.80	3.70	0.00
2004	47,876.31	.00	0.00	0.00	433.06	47,443.25	.90	0.00
2003	39,198.36	.00	0.00	127.04	497.80	38,700.56	1.27	0.00
2002	33,960.08	.00	0.00	178.01	302.04	33,658.04	.89	0.00
2001	25,340.86	.00	0.00	0.00	262.65	25,078.21	1.04	0.00
2000	22,184.32	.00	0.00	38.31	223.84	21,960.48	1.01	0.00
1999	17,653.20	.00	0.00	0.00	508.73	17,144.47	2.88	0.00
1998	77,051.47	.00	0.00	8.46	485.49	76,565.98	.63	0.00
****	25,049,656.46	.00	89,567.93-	341,035.53	20,926,027.88	4,034,060.65		1,332.65-
	ADJUSTMENT REFUNDS	.00	31,295.87-					

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TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
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JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
	-----	-----	-----	-----	-----	-----
CURRENT YEAR	0	0	0	0.649000	21,811.72	5
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
	-----	-----	-----	-----	-----	-----	-----	-----
2018	5,962.69	.00	15,849.03	0.00	17,809.00	4,002.72	81.65	0.00
ADJUSTMENT REFUNDS		.00	7,896.35-					
2017	17,255.13	.00	12,639.48	0.00	28,996.78	897.83	97.00	0.00
ADJUSTMENT REFUNDS		.00	5,108.61-					
2016	25,390.50	.00	13,507.75	0.00	37,938.12	960.13	97.53	0.00
ADJUSTMENT REFUNDS		.00	63.29-					
2015	26,920.48	.00	14,339.30	0.00	40,243.99	1,015.79	97.54	0.00
ADJUSTMENT REFUNDS		.00	82.10-					
2014	21,366.40	.00	15,737.38	0.00	35,988.96	1,114.82	97.00	0.00
2013	0.00	.00	0.00	0.00	0.00	0.00		0.00
****	96,895.20	.00	72,072.94	0.00	160,976.85	7,991.29		0.00
ADJUSTMENT REFUNDS		.00	13,150.35-					

TAX COLLECTION SYSTEM
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JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE		ADJUSTMENTS		ADJ TAX VALUE		TAX RATE		TAX LEVY		PAID ACCTS
	-----		-----		-----		-----		-----		-----
CURRENT YEAR	3,177,515,281		9,338,232-		3,168,177,049		0.717600		22,425,599.45		24,125
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
-----	-----	-----	-----	-----	-----	-----	-----	-----
2019	22,493,508.68	.00	67,909.23-	312,855.60	20,544,098.50	1,881,500.95	91.61	0.00
	ADJUSTMENT REFUNDS	.00	18,145.52-					
2018	733,394.11	.00	3,416.73	15,089.32	265,006.53	471,804.31	35.97	160.82-
	ADJUSTMENT REFUNDS	.00	7,896.35-					
2017	347,367.94	.00	6,135.93	6,486.99	86,148.13	267,355.74	24.37	160.82-
	ADJUSTMENT REFUNDS	.00	5,108.61-					
2016	258,146.39	.00	12,579.43	3,257.59	66,887.20	203,838.62	24.71	155.99-
	ADJUSTMENT REFUNDS	.00	63.29-					
2015	237,952.75	.00	13,492.53	1,311.98	59,924.54	191,520.74	23.83	155.99-
	ADJUSTMENT REFUNDS	.00	82.10-					
2014	150,623.93	.00	15,326.46	629.69	45,665.74	120,284.65	27.52	162.19-
2013	97,825.34	.00	162.19-	418.87	4,008.55	93,654.60	4.10	162.19-
2012	94,051.99	.00	162.19-	81.68	2,720.21	91,169.59	2.90	162.19-
2011	85,836.93	.00	162.19-	105.86	1,968.90	83,705.84	2.30	162.19-
2010	82,281.11	.00	50.27-	184.72	1,934.87	80,295.97	2.35	50.27-
2009	79,251.23	.00	0.00	53.79	1,495.90	77,755.33	1.89	0.00
2008	63,695.43	.00	0.00	137.83	642.82	63,052.61	1.01	0.00
2007	57,133.13	.00	0.00	2.92	1,080.40	56,052.73	1.89	0.00
2006	53,739.43	.00	0.00	20.09	915.96	52,823.47	1.70	0.00
2005	48,478.67	.00	0.00	46.78	1,792.87	46,685.80	3.70	0.00
2004	47,876.31	.00	0.00	0.00	433.06	47,443.25	.90	0.00
2003	39,198.36	.00	0.00	127.04	497.80	38,700.56	1.27	0.00
2002	33,960.08	.00	0.00	178.01	302.04	33,658.04	.89	0.00
2001	25,340.86	.00	0.00	0.00	262.65	25,078.21	1.04	0.00
2000	22,184.32	.00	0.00	38.31	223.84	21,960.48	1.01	0.00
1999	17,653.20	.00	0.00	0.00	508.73	17,144.47	2.88	0.00
1998	77,051.47	.00	0.00	8.46	485.49	76,565.98	.63	0.00
****	25,146,551.66	.00	17,494.99-	341,035.53	21,087,004.73	4,042,051.94		1,332.65-
	ADJUSTMENT REFUNDS	.00	31,295.87-					

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YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2019	M & O	.567100	16,235,449.60	.00	114,365.73	940,693.94-	15,409,121.39	459.05	.00	.00	16,350,274.38
	I & S	.150500	4,308,648.90	.00	30,351.29	249,646.36-	4,089,353.83	.00	.00	.00	4,339,000.19
	TOTAL	.717600	20,544,098.50	.00	144,717.02	1,190,340.30-	19,498,475.22	459.05	.00	.00	20,689,274.57
2018	M & O	.567100	216,002.66	.00	49,076.75	94,147.96	359,227.37	43,671.09	.00	.00	308,750.50
	I & S	.081900	31,194.87	.00	7,087.11	13,596.76	51,878.74	.00	.00	.00	38,281.98
	TOTAL	.649000	247,197.53	.00	56,163.86	107,744.72	411,106.11	43,671.09	.00	.00	347,032.48
2017	M & O	.567100	49,939.15	.00	17,982.28	5,543.61	73,465.04	11,488.54	.00	.00	79,409.97
	I & S	.081900	7,212.20	.00	2,596.92	800.61	10,609.73	.00	.00	.00	9,809.12
	TOTAL	.649000	57,151.35	.00	20,579.20	6,344.22	84,074.77	11,488.54	.00	.00	89,219.09
2016	M & O	.582100	25,766.39	.00	11,223.74	.00	36,990.13	5,518.10	.00	.00	42,508.23
	I & S	.071900	3,182.69	.00	1,386.34	.00	4,569.03	.00	.00	.00	4,569.03
	TOTAL	.654000	28,949.08	.00	12,610.08	.00	41,559.16	5,518.10	.00	.00	47,077.26
2015	M & O	.582100	17,516.79	.00	9,327.99	.00	26,844.78	3,869.12	.00	.00	30,713.90
	I & S	.071900	2,163.76	.00	1,152.12	.00	3,315.88	.00	.00	.00	3,315.88
	TOTAL	.654000	19,680.55	.00	10,480.11	.00	30,160.66	3,869.12	.00	.00	34,029.78
2014	M & O	.608100	8,653.63	.00	5,603.02	.00	14,256.65	2,079.31	.00	.00	16,335.96
	I & S	.071900	1,023.15	.00	662.46	.00	1,685.61	.00	.00	.00	1,685.61
	TOTAL	.680000	9,676.78	.00	6,265.48	.00	15,942.26	2,079.31	.00	.00	18,021.57
2013	M & O	.605000	3,566.46	.00	2,185.61	.00	5,752.07	526.55	.00	.00	6,278.62
	I & S	.075000	442.09	.00	270.95	.00	713.04	.00	.00	.00	713.04
	TOTAL	.680000	4,008.55	.00	2,456.56	.00	6,465.11	526.55	.00	.00	6,991.66
2012	M & O	.602600	2,410.55	.00	1,736.02	.00	4,146.57	390.64	.00	.00	4,537.21
	I & S	.077400	309.66	.00	222.95	.00	532.61	.00	.00	.00	532.61
	TOTAL	.680000	2,720.21	.00	1,958.97	.00	4,679.18	390.64	.00	.00	5,069.82
2011	M & O	.602100	1,743.35	.00	1,542.33	.00	3,285.68	395.42	.00	.00	3,681.10
	I & S	.077900	225.55	.00	199.57	.00	425.12	.00	.00	.00	425.12
	TOTAL	.680000	1,968.90	.00	1,741.90	.00	3,710.80	395.42	.00	.00	4,106.22
2010	M & O	.601800	1,712.39	.00	1,674.64	.00	3,387.03	381.10	.00	.00	3,768.13
	I & S	.078200	222.48	.00	217.64	.00	440.12	.00	.00	.00	440.12
	TOTAL	.680000	1,934.87	.00	1,892.28	.00	3,827.15	381.10	.00	.00	4,208.25
2009	M & O	.601800	1,323.89	.00	1,468.57	.00	2,792.46	361.24	.00	.00	3,153.70
	I & S	.078200	172.01	.00	190.83	.00	362.84	.00	.00	.00	362.84
	TOTAL	.680000	1,495.90	.00	1,659.40	.00	3,155.30	361.24	.00	.00	3,516.54
2008	M & O	.602940	568.43	.00	728.90	.00	1,297.33	184.86	.00	.00	1,482.19
	I & S	.078910	74.39	.00	95.39	.00	169.78	.00	.00	.00	169.78
	TOTAL	.681850	642.82	.00	824.29	.00	1,467.11	184.86	.00	.00	1,651.97

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YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2007	M & O	.596130	942.81	.00	1,266.55	.00	2,209.36	287.02	.00	.00	2,496.38
	I & S	.086990	137.59	.00	184.80	.00	322.39	.00	.00	.00	322.39
	TOTAL	.683120	1,080.40	.00	1,451.35	.00	2,531.75	287.02	.00	.00	2,818.77
2006	M & O	.593130	795.29	.00	1,055.57	.00	1,850.86	179.56	.00	.00	2,030.42
	I & S	.089990	120.67	.00	160.14	.00	280.81	.00	.00	.00	280.81
	TOTAL	.683120	915.96	.00	1,215.71	.00	2,131.67	179.56	.00	.00	2,311.23
2005	M & O	.593130	1,556.70	.00	2,287.95	.00	3,844.65	284.02	.00	.00	4,128.67
	I & S	.089990	236.17	.00	347.11	.00	583.28	.00	.00	.00	583.28
	TOTAL	.683120	1,792.87	.00	2,635.06	.00	4,427.93	284.02	.00	.00	4,711.95
2004	M & O	.601650	381.41	.00	695.25	.00	1,076.66	100.46	.00	.00	1,177.12
	I & S	.081470	51.65	.00	94.14	.00	145.79	.00	.00	.00	145.79
	TOTAL	.683120	433.06	.00	789.39	.00	1,222.45	100.46	.00	.00	1,322.91
2003	M & O	.596220	434.47	.00	721.04	.00	1,155.51	38.72	.00	.00	1,194.23
	I & S	.086900	63.33	.00	105.11	.00	168.44	.00	.00	.00	168.44
	TOTAL	.683120	497.80	.00	826.15	.00	1,323.95	38.72	.00	.00	1,362.67
2002	M & O	.590210	258.36	.00	436.87	.00	695.23	69.83	.00	.00	765.06
	I & S	.099790	43.68	.00	73.85	.00	117.53	.00	.00	.00	117.53
	TOTAL	.690000	302.04	.00	510.72	.00	812.76	69.83	.00	.00	882.59
2001	M & O	.564720	223.96	.00	480.21	.00	704.17	35.92	.00	.00	740.09
	I & S	.097590	38.69	.00	82.99	.00	121.68	.00	.00	.00	121.68
	TOTAL	.662310	262.65	.00	563.20	.00	825.85	35.92	.00	.00	861.77
2000	M & O	.533960	186.07	.00	410.60	.00	596.67	38.73	.00	.00	635.40
	I & S	.108350	37.77	.00	83.31	.00	121.08	.00	.00	.00	121.08
	TOTAL	.642310	223.84	.00	493.91	.00	717.75	38.73	.00	.00	756.48
1999	M & O	.529360	419.27	.00	917.58	.00	1,336.85	97.60	.00	.00	1,434.45
	I & S	.112950	89.46	.00	195.80	.00	285.26	.00	.00	.00	285.26
	TOTAL	.642310	508.73	.00	1,113.38	.00	1,622.11	97.60	.00	.00	1,719.71
1998	M & O	.505610	168.22	.00	402.82	.00	571.04	71.65	.00	.00	642.69
	I & S	.124390	41.39	.00	99.12	.00	140.51	.00	.00	.00	140.51
	TOTAL	.630000	209.61	.00	501.94	.00	711.55	71.65	.00	.00	783.20
1997	M & O	.524810	75.76	.00	201.68	.00	277.44	45.46	.00	.00	322.90
	I & S	.075190	10.85	.00	28.90	.00	39.75	.00	.00	.00	39.75
	TOTAL	.600000	86.61	.00	230.58	.00	317.19	45.46	.00	.00	362.65
1996	M & O	.516090	162.81	.00	403.10	.00	565.91	47.02	.00	.00	612.93
	I & S	.083910	26.46	.00	65.54	.00	92.00	.00	.00	.00	92.00
	TOTAL	.600000	189.27	.00	468.64	.00	657.91	47.02	.00	.00	704.93

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YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
ALL	M & O		16,570,258.42	.00	226,194.80	841,002.37-	15,955,450.85	70,621.01	.00	.00	16,867,074.23
ALL	I & S		4,355,769.46	.00	45,954.38	235,248.99-	4,166,474.85	.00	.00	.00	4,401,723.84
ALL	TOTAL		20,926,027.88	.00	272,149.18	1,076,251.36-	20,121,925.70	70,621.01	.00	.00	21,268,798.07
DLQ	M & O		334,808.82	.00	111,829.07	99,691.57	546,329.46	70,161.96	.00	.00	516,799.85
DLQ	I & S		47,120.56	.00	15,603.09	14,397.37	77,121.02	.00	.00	.00	62,723.65
DLQ	TOTAL		381,929.38	.00	127,432.16	114,088.94	623,450.48	70,161.96	.00	.00	579,523.50
CURR	M & O		16,235,449.60	.00	114,365.73	940,693.94-	15,409,121.39	459.05	.00	.00	16,350,274.38
CURR	I & S		4,308,648.90	.00	30,351.29	249,646.36-	4,089,353.83	.00	.00	.00	4,339,000.19
CURR	TOTAL		20,544,098.50	.00	144,717.02	1,190,340.30-	19,498,475.22	459.05	.00	.00	20,689,274.57

TAX COLLECTION SYSTEM
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YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2019	M & O	.567100	16,235,449.60	.00	114,365.73	940,693.94-	15,409,121.39	459.05	.00	.00	16,350,274.38
	I & S	.150500	4,308,648.90	.00	30,351.29	249,646.36-	4,089,353.83	.00	.00	.00	4,339,000.19
	TOTAL	.717600	20,544,098.50	.00	144,717.02	1,190,340.30-	19,498,475.22	459.05	.00	.00	20,689,274.57
2018	M & O	.567100	231,564.27	.00	49,076.75	89,793.97	370,434.99	43,671.09	.00	.00	324,312.11
	I & S	.081900	33,442.26	.00	7,087.11	12,967.97	53,497.34	.00	.00	.00	40,529.37
	TOTAL	.649000	265,006.53	.00	56,163.86	102,761.94	423,932.33	43,671.09	.00	.00	364,841.48
2017	M & O	.567100	75,276.70	.00	17,982.28	5,543.61	98,802.59	11,488.54	.00	.00	104,747.52
	I & S	.081900	10,871.43	.00	2,596.92	800.61	14,268.96	.00	.00	.00	13,468.35
	TOTAL	.649000	86,148.13	.00	20,579.20	6,344.22	113,071.55	11,488.54	.00	.00	118,215.87
2016	M & O	.582100	59,533.64	.00	11,663.27	.00	71,196.91	5,518.10	.00	.00	76,715.01
	I & S	.071900	7,353.56	.00	1,440.63	.00	8,794.19	.00	.00	.00	8,794.19
	TOTAL	.654000	66,887.20	.00	13,103.90	.00	79,991.10	5,518.10	.00	.00	85,509.20
2015	M & O	.582100	53,336.40	.00	9,793.90	.00	63,130.30	3,869.12	.00	.00	66,999.42
	I & S	.071900	6,588.14	.00	1,209.67	.00	7,797.81	.00	.00	.00	7,797.81
	TOTAL	.654000	59,924.54	.00	11,003.57	.00	70,928.11	3,869.12	.00	.00	74,797.23
2014	M & O	.608100	40,837.28	.00	5,603.02	.00	46,440.30	2,079.31	.00	.00	48,519.61
	I & S	.071900	4,828.46	.00	662.46	.00	5,490.92	.00	.00	.00	5,490.92
	TOTAL	.680000	45,665.74	.00	6,265.48	.00	51,931.22	2,079.31	.00	.00	54,010.53
2013	M & O	.605000	3,566.46	.00	2,185.61	.00	5,752.07	526.55	.00	.00	6,278.62
	I & S	.075000	442.09	.00	270.95	.00	713.04	.00	.00	.00	713.04
	TOTAL	.680000	4,008.55	.00	2,456.56	.00	6,465.11	526.55	.00	.00	6,991.66
2012	M & O	.602600	2,410.55	.00	1,736.02	.00	4,146.57	390.64	.00	.00	4,537.21
	I & S	.077400	309.66	.00	222.95	.00	532.61	.00	.00	.00	532.61
	TOTAL	.680000	2,720.21	.00	1,958.97	.00	4,679.18	390.64	.00	.00	5,069.82
2011	M & O	.602100	1,743.35	.00	1,542.33	.00	3,285.68	395.42	.00	.00	3,681.10
	I & S	.077900	225.55	.00	199.57	.00	425.12	.00	.00	.00	425.12
	TOTAL	.680000	1,968.90	.00	1,741.90	.00	3,710.80	395.42	.00	.00	4,106.22
2010	M & O	.601800	1,712.39	.00	1,674.64	.00	3,387.03	381.10	.00	.00	3,768.13
	I & S	.078200	222.48	.00	217.64	.00	440.12	.00	.00	.00	440.12
	TOTAL	.680000	1,934.87	.00	1,892.28	.00	3,827.15	381.10	.00	.00	4,208.25
2009	M & O	.601800	1,323.89	.00	1,468.57	.00	2,792.46	361.24	.00	.00	3,153.70
	I & S	.078200	172.01	.00	190.83	.00	362.84	.00	.00	.00	362.84
	TOTAL	.680000	1,495.90	.00	1,659.40	.00	3,155.30	361.24	.00	.00	3,516.54
2008	M & O	.602940	568.43	.00	728.90	.00	1,297.33	184.86	.00	.00	1,482.19
	I & S	.078910	74.39	.00	95.39	.00	169.78	.00	.00	.00	169.78
	TOTAL	.681850	642.82	.00	824.29	.00	1,467.11	184.86	.00	.00	1,651.97

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 TC298-D SELECTION: SYSTEM
 RECEIPT DATE: ALL
 LOCATION: LOCATION NAME NOT FOUND

TAX COLLECTION SYSTEM
 DEPOSIT DISTRIBUTION
 FROM: 10/01/2019 THRU 04/30/2020
 JURISDICTION: 0033 CITY OF PHARR

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 INCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2007	M & O	.596130	942.81	.00	1,266.55	.00	2,209.36	287.02	.00	.00	2,496.38
	I & S	.086990	137.59	.00	184.80	.00	322.39	.00	.00	.00	322.39
	TOTAL	.683120	1,080.40	.00	1,451.35	.00	2,531.75	287.02	.00	.00	2,818.77
2006	M & O	.593130	795.29	.00	1,055.57	.00	1,850.86	179.56	.00	.00	2,030.42
	I & S	.089990	120.67	.00	160.14	.00	280.81	.00	.00	.00	280.81
	TOTAL	.683120	915.96	.00	1,215.71	.00	2,131.67	179.56	.00	.00	2,311.23
2005	M & O	.593130	1,556.70	.00	2,287.95	.00	3,844.65	284.02	.00	.00	4,128.67
	I & S	.089990	236.17	.00	347.11	.00	583.28	.00	.00	.00	583.28
	TOTAL	.683120	1,792.87	.00	2,635.06	.00	4,427.93	284.02	.00	.00	4,711.95
2004	M & O	.601650	381.41	.00	695.25	.00	1,076.66	100.46	.00	.00	1,177.12
	I & S	.081470	51.65	.00	94.14	.00	145.79	.00	.00	.00	145.79
	TOTAL	.683120	433.06	.00	789.39	.00	1,222.45	100.46	.00	.00	1,322.91
2003	M & O	.596220	434.47	.00	721.04	.00	1,155.51	38.72	.00	.00	1,194.23
	I & S	.086900	63.33	.00	105.11	.00	168.44	.00	.00	.00	168.44
	TOTAL	.683120	497.80	.00	826.15	.00	1,323.95	38.72	.00	.00	1,362.67
2002	M & O	.590210	258.36	.00	436.87	.00	695.23	69.83	.00	.00	765.06
	I & S	.099790	43.68	.00	73.85	.00	117.53	.00	.00	.00	117.53
	TOTAL	.690000	302.04	.00	510.72	.00	812.76	69.83	.00	.00	882.59
2001	M & O	.564720	223.96	.00	480.21	.00	704.17	35.92	.00	.00	740.09
	I & S	.097590	38.69	.00	82.99	.00	121.68	.00	.00	.00	121.68
	TOTAL	.662310	262.65	.00	563.20	.00	825.85	35.92	.00	.00	861.77
2000	M & O	.533960	186.07	.00	410.60	.00	596.67	38.73	.00	.00	635.40
	I & S	.108350	37.77	.00	83.31	.00	121.08	.00	.00	.00	121.08
	TOTAL	.642310	223.84	.00	493.91	.00	717.75	38.73	.00	.00	756.48
1999	M & O	.529360	419.27	.00	917.58	.00	1,336.85	97.60	.00	.00	1,434.45
	I & S	.112950	89.46	.00	195.80	.00	285.26	.00	.00	.00	285.26
	TOTAL	.642310	508.73	.00	1,113.38	.00	1,622.11	97.60	.00	.00	1,719.71
1998	M & O	.505610	168.22	.00	402.82	.00	571.04	71.65	.00	.00	642.69
	I & S	.124390	41.39	.00	99.12	.00	140.51	.00	.00	.00	140.51
	TOTAL	.630000	209.61	.00	501.94	.00	711.55	71.65	.00	.00	783.20
1997	M & O	.524810	75.76	.00	201.68	.00	277.44	45.46	.00	.00	322.90
	I & S	.075190	10.85	.00	28.90	.00	39.75	.00	.00	.00	39.75
	TOTAL	.600000	86.61	.00	230.58	.00	317.19	45.46	.00	.00	362.65
1996	M & O	.516090	162.81	.00	403.10	.00	565.91	47.02	.00	.00	612.93
	I & S	.083910	26.46	.00	65.54	.00	92.00	.00	.00	.00	92.00
	TOTAL	.600000	189.27	.00	468.64	.00	657.91	47.02	.00	.00	704.93

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 TC298-D SELECTION: SYSTEM
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TAX COLLECTION SYSTEM
 DEPOSIT DISTRIBUTION
 FROM: 10/01/2019 THRU 04/30/2020
 JURISDICTION: 0033 CITY OF PHARR

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 INCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
ALL	M & O		16,712,928.09	.00	227,100.24	845,356.36-	16,094,671.97	70,621.01	.00	.00	17,010,649.34
ALL	I & S		4,374,076.64	.00	46,066.22	235,877.78-	4,184,265.08	.00	.00	.00	4,420,142.86
ALL	TOTAL		21,087,004.73	.00	273,166.46	1,081,234.14-	20,278,937.05	70,621.01	.00	.00	21,430,792.20
DLQ	M & O		477,478.49	.00	112,734.51	95,337.58	685,550.58	70,161.96	.00	.00	660,374.96
DLQ	I & S		65,427.74	.00	15,714.93	13,768.58	94,911.25	.00	.00	.00	81,142.67
DLQ	TOTAL		542,906.23	.00	128,449.44	109,106.16	780,461.83	70,161.96	.00	.00	741,517.63
CURR	M & O		16,235,449.60	.00	114,365.73	940,693.94-	15,409,121.39	459.05	.00	.00	16,350,274.38
CURR	I & S		4,308,648.90	.00	30,351.29	249,646.36-	4,089,353.83	.00	.00	.00	4,339,000.19
CURR	TOTAL		20,544,098.50	.00	144,717.02	1,190,340.30-	19,498,475.22	459.05	.00	.00	20,689,274.57

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TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 10/01/2019 TO 04/30/2020

EXCLUDES AG ROLLBACK

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FISCAL START: 10/01/2019 END: 09/30/2020 JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
	-----	-----	-----	-----	-----	-----
CURRENT YEAR	3,177,515,281	9,338,232-	3,168,177,049	00.717600	22,425,599.45	24,125
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
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2019	22,493,508.68	67,909.23-	67,909.23-	20,544,098.50	20,544,098.50	1,881,500.95	91.61	48.23-
2018	727,431.42	12,432.30-	12,432.30-	247,197.53	247,197.53	467,801.59	34.57	160.82-
2017	330,112.81	6,503.55-	6,503.55-	57,151.35	57,151.35	266,457.91	17.66	160.82-
2016	232,755.89	928.32-	928.32-	28,949.08	28,949.08	202,878.49	12.49	155.99-
2015	211,032.27	846.77-	846.77-	19,680.55	19,680.55	190,504.95	9.36	155.99-
2014	129,257.53	410.92-	410.92-	9,676.78	9,676.78	119,169.83	7.51	162.19-
2013	97,825.34	162.19-	162.19-	4,008.55	4,008.55	93,654.60	4.10	162.19-
2012	94,051.99	162.19-	162.19-	2,720.21	2,720.21	91,169.59	2.90	162.19-
2011	85,836.93	162.19-	162.19-	1,968.90	1,968.90	83,705.84	2.30	162.19-
2010	82,281.11	50.27-	50.27-	1,934.87	1,934.87	80,295.97	2.35	50.27-
2009	79,251.23	.00	0.00	1,495.90	1,495.90	77,755.33	1.89	0.00
2008	63,695.43	.00	0.00	642.82	642.82	63,052.61	1.01	0.00
2007	57,133.13	.00	0.00	1,080.40	1,080.40	56,052.73	1.89	0.00
2006	53,739.43	.00	0.00	915.96	915.96	52,823.47	1.70	0.00
2005	48,478.67	.00	0.00	1,792.87	1,792.87	46,685.80	3.70	0.00
2004	47,876.31	.00	0.00	433.06	433.06	47,443.25	.90	0.00
2003	39,198.36	.00	0.00	497.80	497.80	38,700.56	1.27	0.00
2002	33,960.08	.00	0.00	302.04	302.04	33,658.04	.89	0.00
2001	25,340.86	.00	0.00	262.65	262.65	25,078.21	1.04	0.00
2000	22,184.32	.00	0.00	223.84	223.84	21,960.48	1.01	0.00
1999	17,653.20	.00	0.00	508.73	508.73	17,144.47	2.88	0.00
1998	77,051.47	.00	0.00	485.49	485.49	76,565.98	.63	0.00
****	25,049,656.46	89,567.93-	89,567.93-	20,926,027.88	20,926,027.88	4,034,060.65		1,380.88-

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TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 10/01/2019 TO 04/30/2020

AG ROLLBACK ONLY

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FISCAL START: 10/01/2019 END: 09/30/2020 JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
	-----	-----	-----	-----	-----	-----
CURRENT YEAR	0	0	0	00.649000	21,811.72	5
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
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2018	5,962.69	15,849.03	15,849.03	17,809.00	17,809.00	4,002.72	81.65	0.00
2017	17,255.13	12,639.48	12,639.48	28,996.78	28,996.78	897.83	97.00	0.00
2016	25,390.50	13,507.75	13,507.75	37,938.12	37,938.12	960.13	97.53	0.00
2015	26,920.48	14,339.30	14,339.30	40,243.99	40,243.99	1,015.79	97.54	0.00
2014	21,366.40	15,737.38	15,737.38	35,988.96	35,988.96	1,114.82	97.00	0.00
2013	0.00	.00	0.00	0.00	0.00	0.00		0.00
****	96,895.20	72,072.94	72,072.94	160,976.85	160,976.85	7,991.29		0.00

TAX COLLECTION SYSTEM
TAX COLLECTOR MONTHLY REPORT
FROM 10/01/2019 TO 04/30/2020

INCLUDES AG ROLLBACK

FISCAL START: 10/01/2019 END: 09/30/2020 JURISDICTION: 0033 CITY OF PHARR

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
	-----	-----	-----	-----	-----	-----
CURRENT YEAR	3,177,515.281	9,338,232-	3,168,177.049	00.717600	22,425,599.45	24,125
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YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
	-----	-----	-----	-----	-----	-----	-----	-----
2019	22,493,508.68	67,909.23-	67,909.23-	20,544,098.50	20,544,098.50	1,881,500.95	91.61	48.23-
2018	733,394.11	3,416.73	3,416.73	265,006.53	265,006.53	471,804.31	35.97	160.82-
2017	347,367.94	6,135.93	6,135.93	86,148.13	86,148.13	267,355.74	24.37	160.82-
2016	258,146.39	12,579.43	12,579.43	66,887.20	66,887.20	203,838.62	24.71	155.99-
2015	237,952.75	13,492.53	13,492.53	59,924.54	59,924.54	191,520.74	23.83	155.99-
2014	150,623.93	15,326.46	15,326.46	45,665.74	45,665.74	120,284.65	27.52	162.19-
2013	97,825.34	162.19-	162.19-	4,008.55	4,008.55	93,654.60	4.10	162.19-
2012	94,051.99	162.19-	162.19-	2,720.21	2,720.21	91,169.59	2.90	162.19-
2011	85,836.93	162.19-	162.19-	1,968.90	1,968.90	83,705.84	2.30	162.19-
2010	82,281.11	50.27-	50.27-	1,934.87	1,934.87	80,295.97	2.35	50.27-
2009	79,251.23	.00	0.00	1,495.90	1,495.90	77,755.33	1.89	0.00
2008	63,695.43	.00	0.00	642.82	642.82	63,052.61	1.01	0.00
2007	57,133.13	.00	0.00	1,080.40	1,080.40	56,052.73	1.89	0.00
2006	53,739.43	.00	0.00	915.96	915.96	52,823.47	1.70	0.00
2005	48,478.67	.00	0.00	1,792.87	1,792.87	46,685.80	3.70	0.00
2004	47,876.31	.00	0.00	433.06	433.06	47,443.25	.90	0.00
2003	39,198.36	.00	0.00	497.80	497.80	38,700.56	1.27	0.00
2002	33,960.08	.00	0.00	302.04	302.04	33,658.04	.89	0.00
2001	25,340.86	.00	0.00	262.65	262.65	25,078.21	1.04	0.00
2000	22,184.32	.00	0.00	223.84	223.84	21,960.48	1.01	0.00
1999	17,653.20	.00	0.00	508.73	508.73	17,144.47	2.88	0.00
1998	77,051.47	.00	0.00	485.49	485.49	76,565.98	.63	0.00
****	25,146,551.66	17,494.99-	17,494.99-	21,087,004.73	21,087,004.73	4,042,051.94		1,380.88-

TAX COLLECTION SYSTEM
 DEPOSIT DISTRIBUTION
 JURISDICTION SUMMARY

FROM: 04/01/2020 THRU 04/30/2020

UPDATE MODE

JURISDICTION: ALL

ACCOUNT	YEAR	DEPOSIT	LEVY COLLECTED	RENDITION PENALTY	P & I COLLECTED	RENDITION P & I	RENDITION DISCOUNT	APPRAISAL COMMISSION	DISBURSEMENT AMOUNT
CURR FOR 0033 CITY OF PHARR			824.75	74.97	88.49	8.03	0.00	4.18	909.06
BY COUNTY 108			824.75	74.97	88.49	8.03	0.00	4.18	909.06
DELQ FOR 0033 CITY OF PHARR			253.96	79.83	79.55	22.55	0.00	5.13	328.38
BY COUNTY 108			253.96	79.83	79.55	22.55	0.00	5.13	328.38
TOTAL FOR 0033 CITY OF PHARR			1,078.71	154.80	168.04	30.58	0.00	9.31	1,237.44
BY COUNTY 108			1,078.71	154.80	168.04	30.58	0.00	9.31	1,237.44
CURR FOR 0035 CITY OF LA JOYA			37.96	3.45	3.42	0.31	0.00	0.19	41.19
BY COUNTY 108			37.96	3.45	3.42	0.31	0.00	0.19	41.19
DELQ FOR 0035 CITY OF LA JOYA			0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FOR 0035 CITY OF LA JOYA			37.96	3.45	3.42	0.31	0.00	0.19	41.19
BY COUNTY 108			37.96	3.45	3.42	0.31	0.00	0.19	41.19
CURR FOR 0036 CITY OF PROGRESO			163.75	14.89	18.01	1.64	0.00	0.82	180.94
BY COUNTY 108			163.75	14.89	18.01	1.64	0.00	0.82	180.94
DELQ FOR 0036 CITY OF PROGRESO			0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FOR 0036 CITY OF PROGRESO			163.75	14.89	18.01	1.64	0.00	0.82	180.94
BY COUNTY 108			163.75	14.89	18.01	1.64	0.00	0.82	180.94
CURR FOR 0037 CITY OF SAN JUAN			1,185.14	76.16-	119.51	8.17	0.00	3.40-	1,308.05
BY COUNTY 108			1,185.14	76.16-	119.51	8.17	0.00	3.40-	1,308.05
DELQ FOR 0037 CITY OF SAN JUAN			5.53	0.50	3.48	0.31	0.00	0.05	8.96
BY COUNTY 108			5.53	0.50	3.48	0.31	0.00	0.05	8.96
TOTAL FOR 0037 CITY OF SAN JUAN			1,190.67	75.66-	122.99	8.48	0.00	3.35-	1,317.01
BY COUNTY 108			1,190.67	75.66-	122.99	8.48	0.00	3.35-	1,317.01
CURR FOR 0039 CITY OF SULLIVAN			38.36	3.49	4.22	0.38	0.00	0.19	42.39
BY COUNTY 108			38.36	3.49	4.22	0.38	0.00	0.19	42.39
DELQ FOR 0039 CITY OF SULLIVAN			0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FOR 0039 CITY OF SULLIVAN			38.36	3.49	4.22	0.38	0.00	0.19	42.39
BY COUNTY 108			38.36	3.49	4.22	0.38	0.00	0.19	42.39
CURR FOR 0040 CITY OF WESLACO			4,257.86	608.33	436.86	64.03	0.00	33.60	4,661.12
BY COUNTY 108			4,257.86	608.33	436.86	64.03	0.00	33.60	4,661.12
DELQ FOR 0040 CITY OF WESLACO			670.01	60.91	180.91	16.44	0.00	3.87	847.05
BY COUNTY 108			670.01	60.91	180.91	16.44	0.00	3.87	847.05
TOTAL FOR 0040 CITY OF WESLACO			4,927.87	669.24	617.77	80.47	0.00	37.47	5,508.17
BY COUNTY 108			4,927.87	669.24	617.77	80.47	0.00	37.47	5,508.17
CURR FOR 0041 EDINBURG CISD			8,125.02	1,038.40	881.30	128.26	0.00	58.38	8,947.94
BY COUNTY 108			8,125.02	1,038.40	881.30	128.26	0.00	58.38	8,947.94
DELQ FOR 0041 EDINBURG CISD			610.81	85.82	250.62	35.63	0.00	6.08	855.35
BY COUNTY 108			610.81	85.82	250.62	35.63	0.00	6.08	855.35
TOTAL FOR 0041 EDINBURG CISD			8,735.83	1,124.22	1,131.92	163.89	0.00	64.46	9,803.29
BY COUNTY 108			8,735.83	1,124.22	1,131.92	163.89	0.00	64.46	9,803.29



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 3.C.

DATE SUBMITTED: May 13, 2020

MEETING DATE: May 18, 2020

FROM: Karla Moya, Finance Director

DEPARTMENT: Finance

DIRECTOR:

Agenda Item: Submission of Financial Quarterly Report for period ending March 2020.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: As part of City Fiscal Transparency, city financial reports are prepared on a quarterly basis in order to maintain informed our citizens and city commission.

This report is preliminary and unaudited and prepared by Finance Department.

This report is quarter ending March 2020.

Financial Consideration:

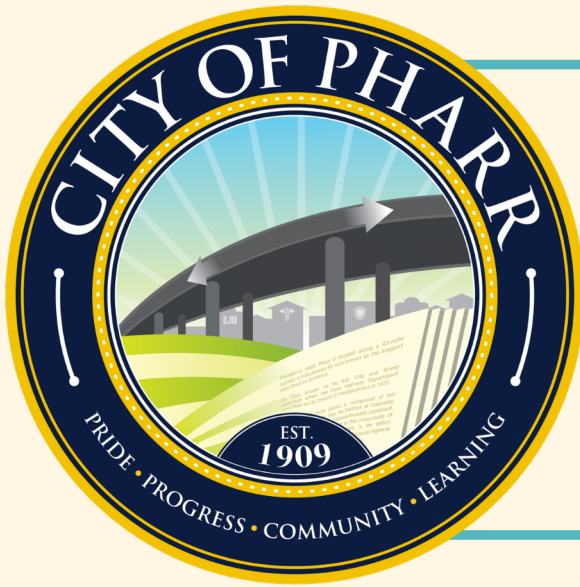
Staff Recommendation:

Alternatives:

ROUTING:

Karla Moya
City Management Office

Created/Initiated - 5/13/2020
Final Approval - 5/15/2020



CITY OF PHARR

2nd Quarterly Financial Report FY 2019-2020

Prepared by Karla Saavedra, CGFO



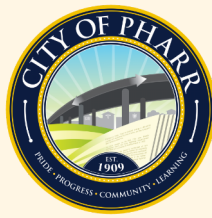
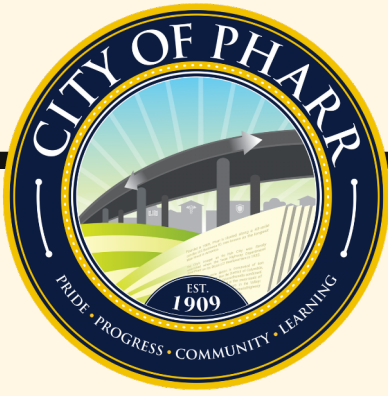


Table of Contents

• General Fund	
◦ General Fund Financial Snapshot	1
◦ Hidalgo County Property Tax Collection Report	2
◦ Sales Tax Snapshot	3
◦ Court Fees Snapshot	4
◦ General Fund Budget vs Actual Usage	5
• Other Funds	
◦ Business-Type Funds Financial Snapshot	6
◦ Utility Fund Fiscal Facts	7 & 8
◦ Bridge Fund Fiscal Facts	9 & 10
◦ Golf Fund Fiscal Funds	11
◦ Event Center Fiscal Facts	12
◦ PEDC Fiscal Facts	13
• Long-Term Debt Obligations	14 & 15
• Construction in Progress	16



May 18, 2020

Mayor

City Commission

Citizens of Pharr

This Quarterly Financial Report was compiled for the purpose of updating the City's elected officials and executive staff on the overall fiscal health of the City.

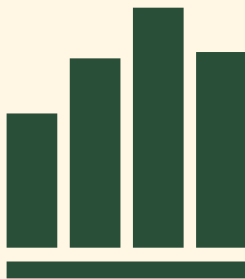
All City data is not included in this report, only the selected major activities whose drastic changes could adversely affect the City's ability to meet its obligations to vendors, staff and citizens.

This is the Finance Department's effort to provide timely, reliable, and transparent fiscal information so that decision makers will have up to date to base their decisions on.

Should you have any questions concerning this matter, please feel free to contact me at (956) 402-4150 ext. 1907 or via email at karla.saavedra@pharr-tx.gov.

Karla Saavedra,
CGFO

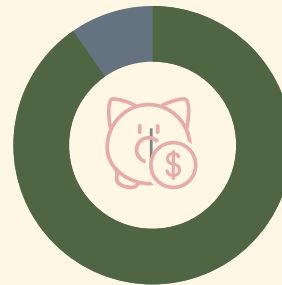
General Fund



General Fund Financial Snapshot for period ending March 31, 2020

1

ASSETS	(In Millions)
Cash	\$8.24
Restricted Cash	3.01
Investments	12.45
Inventory	1.06
Receivables	11.84
Total Assets	\$36.60
LIABILITIES	
Accounts Payable	\$.95
Escrows	2.71
Total Liabilities	\$3.66
FUND BALANCE	\$32.94



\$32.94

Unrestricted and Unassigned
FB available including **\$12.45**
in Contingency Cash

REVENUES	(In Millions)
Property Taxes	\$16.59
Sales Taxes	7.73
Franchise	1.39
Licenses and Permits	.46
Fees and Charges	2.49
Fines	.30
Other	.59
Total Revenues	\$29.55
EXPENDITURES	
General Government	\$5.88
Public Safety	12.21
Highways and Streets	1.78
Health and Welfare	1.16
Culture and Recreation	3.38
Debt Service	1.03
TOTAL EXPENDITURES	\$25.44
Revenues over Expenditures	\$4.11
Transfers In	\$4.60
Transfers Out	(2.01)
Debt Proceeds	1.95
Other Financing Sources/(Uses)	\$4.54
Change in Fund Balance	\$8.65
Fund Balance Beginning	24.29
FUND BALANCE ENDING	\$32.94



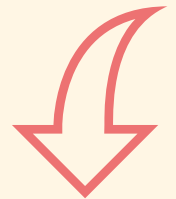


CURRENT LEVY PROPERTY TAX

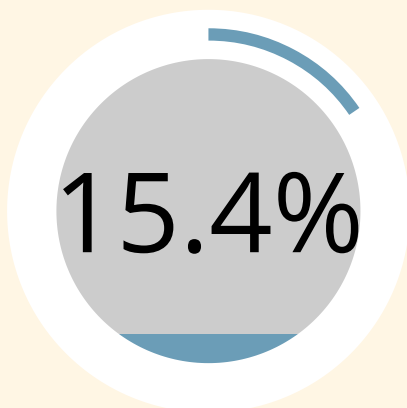
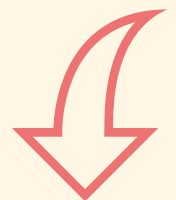
COLLECTED

Tax Roll Year	ORIGINAL TAX LEVY	COLLECTED TO DATE	OUTSTANDING
2019 Roll	\$22,493,509	\$20,299,152	\$2,194,357
2018 & Prior	\$2,556,148	\$375,408	\$2,180,740

- -1.17% decrease in Current collections



- -1.48% decrease in Delinquent collections



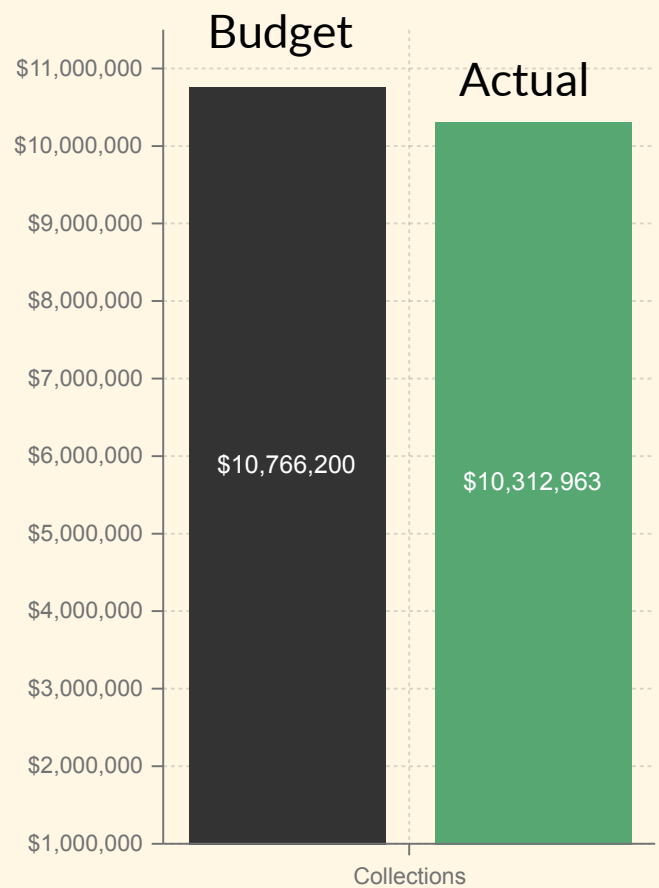
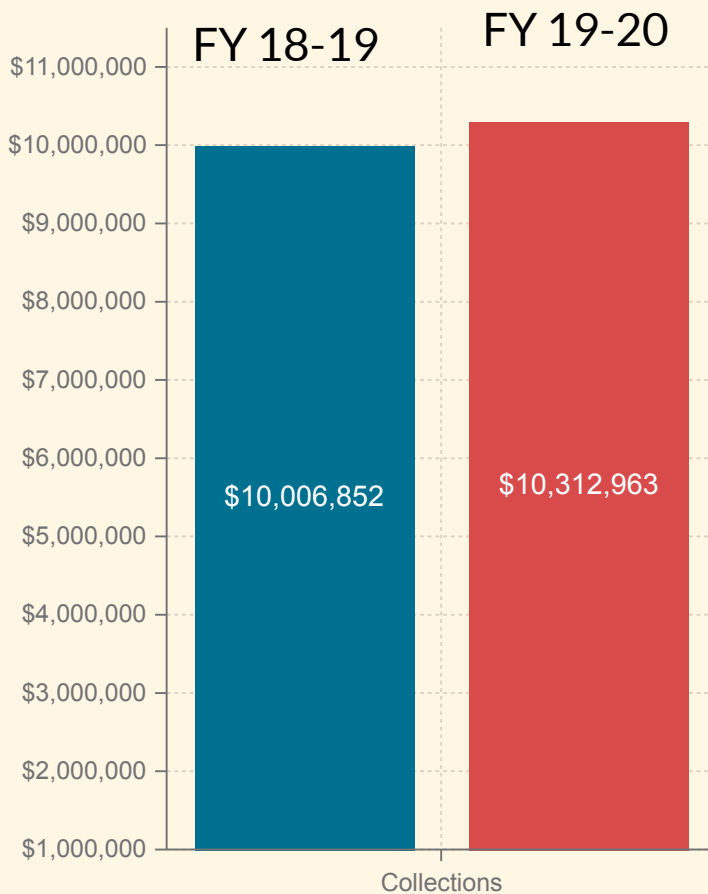
DELINQUENT LEVY PROPERTY TAX

COLLECTED



3.8% YTD Increase in Collections

FY 19-20

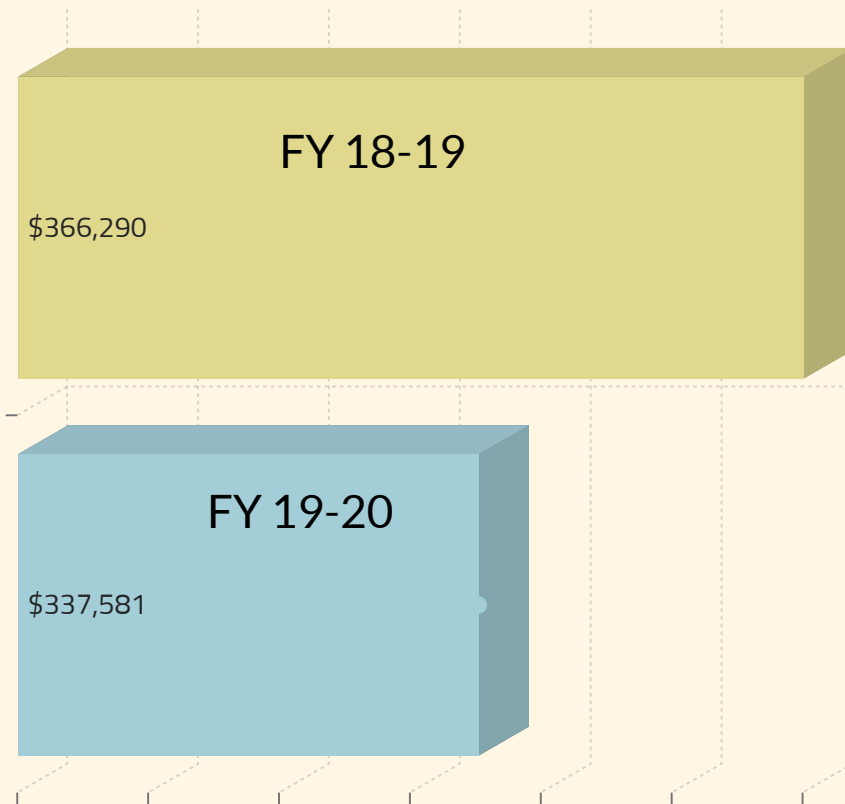


-\$453,237 Less than Budgeted



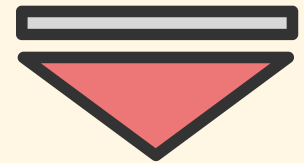
Municipal Court Fees-March 2020

4



-7.84%

Decrease compared to
FY 2018-2019



-34%

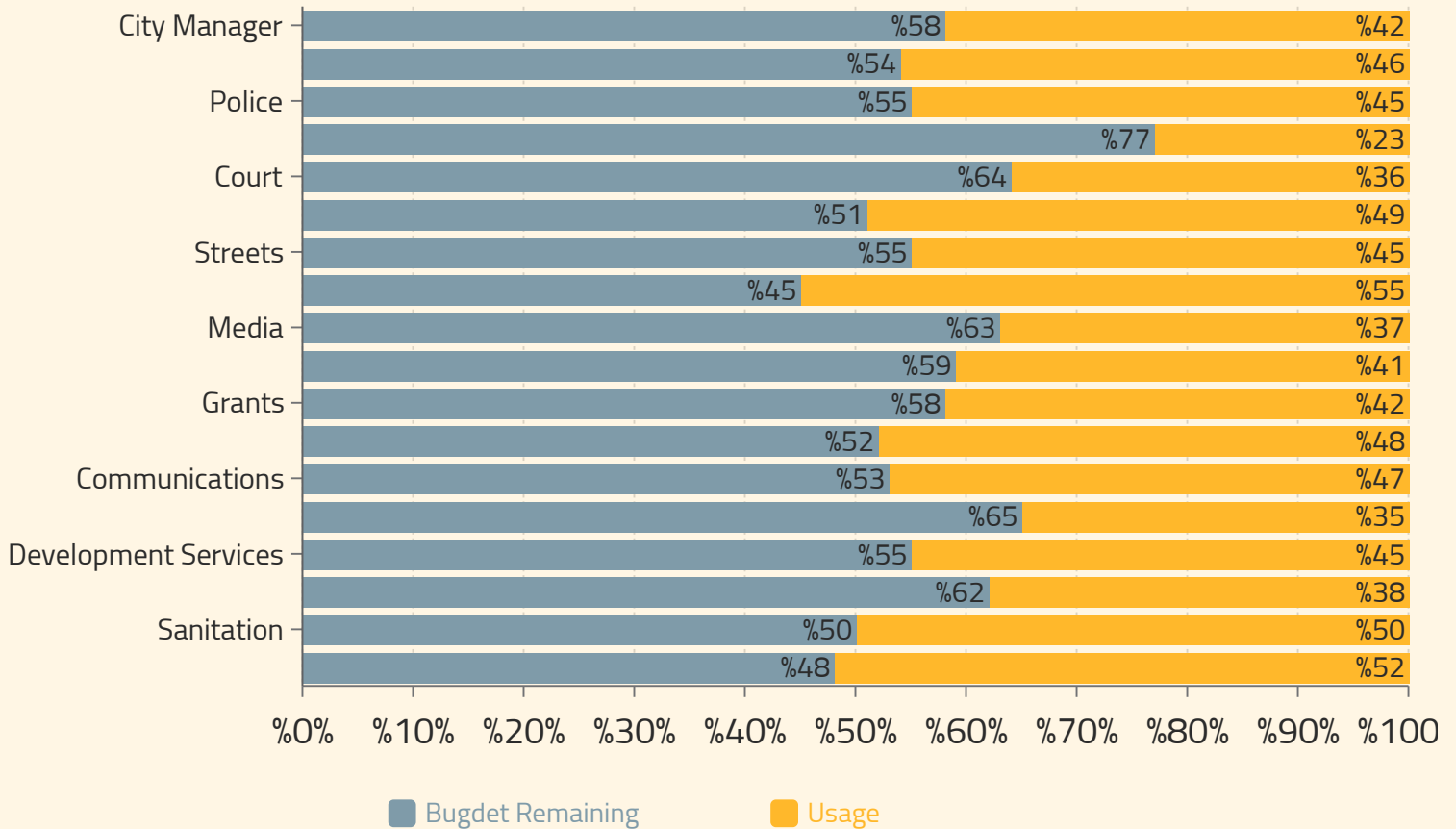
Overall Decrease in last two
fiscal years.

General Fund- Budget Usage as of March 2020

5

50%

Benchmark for Budget use as of March 2020

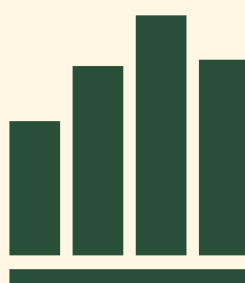


GENERAL FUND AVAILABLE RESOURCES



\$7.51 Short-Term available resources

Other Funds



Business-Type Funds Financial Snapshot for period ending March 31, 2020

6

(In Millions)

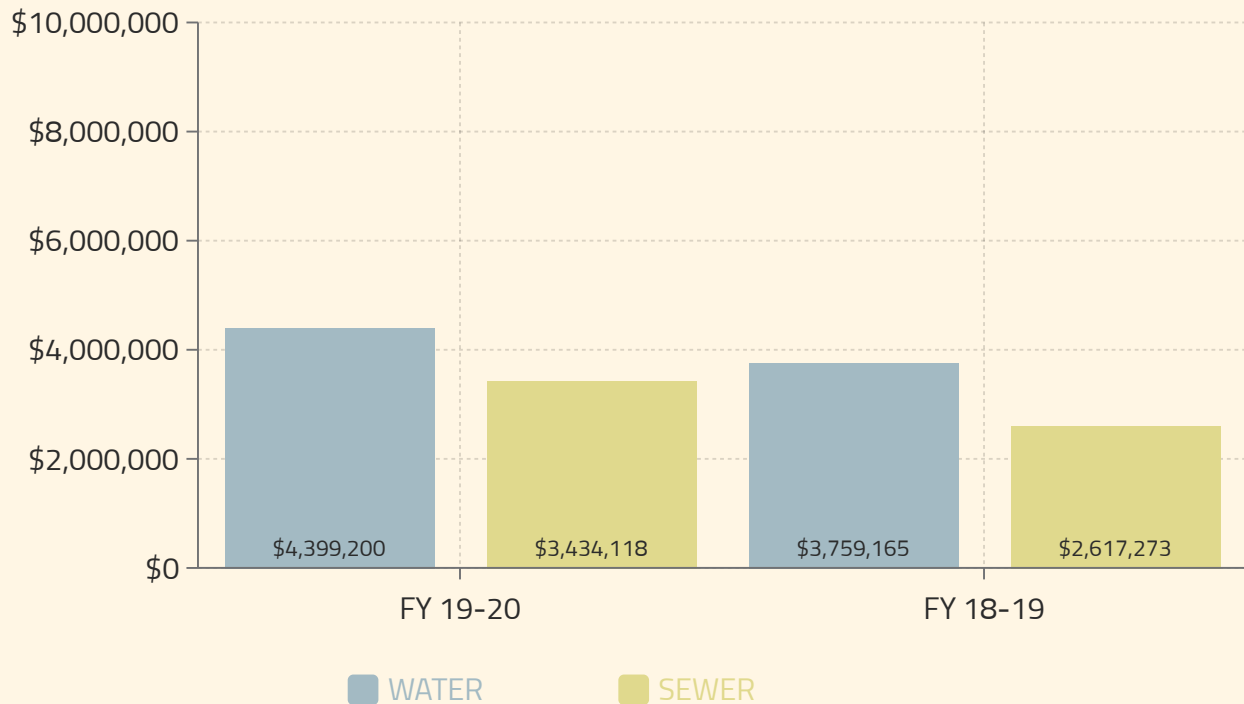
<u>CURRENT ASSETS</u>	Utility	Toll Bridge	Golf	Event Center
Cash	\$3.21	\$.33	\$.763	\$.276
Restricted Cash	12.21	8.00	.0206	-
Inventory	.19	-	.026	.005
Receivables	7.16	.21	.012	.269
Total Current Assets	\$22.77	\$8.54	\$.821	\$.550
<u>CAPITAL ASSETS</u> (net of depreciation)				
Water Rights	\$3.45	-	-	-
Land	0.81	.82	1.00	0.79
Buildings	10.33	1.28	.30	2.29
Improvements	.53	.13	1.80	.09
Machinery and Equipment	2.36	2.52	.22	.01
Infrastructure	95.16	11.78	.02	-
Construction in Progress	12.73	3.96	-	-
Total Capital Assets	125.37	20.49	3.34	3.18
<u>CURRENT LIABILITIES</u>				
Accounts Payable	\$5.63	.640	.141	.097
<u>LT-LIABILITIES</u>				
Lease Payable	1.49	1.49	.27	-
Bonds Payable	37.94	2.10	-	-
Total LT- Liabilities	\$45.06	\$3.59	\$.411	.097
NET POSITION	\$103.09	\$24.80	\$3.75	\$3.63

	Utility 	Toll Bridge	Golf 	Event Center
Operating Income / (Loss)	\$4.36	\$5.01	-\$0.1410	-\$0.153

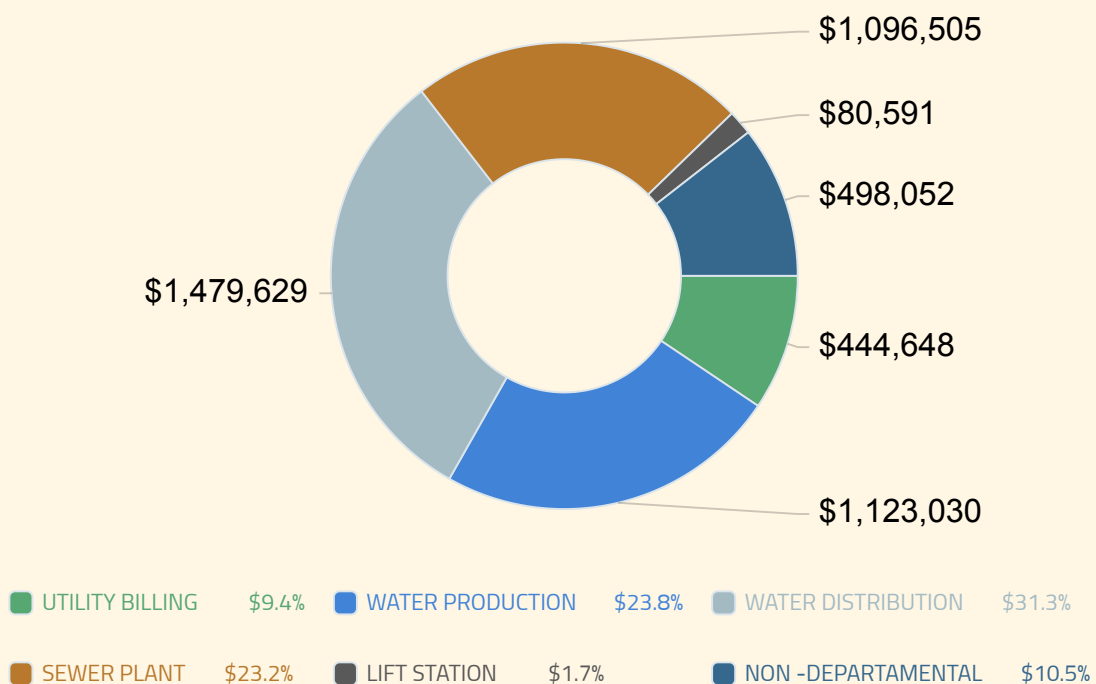
Utility Fund Fiscal Facts as of March 2020

7

Revenues show **22% POSITIVE** variance from last FY 2019 due to new adopted Water and Sewer Rates.



Expenses





DEBT COVERAGE RATIO

Debt Coverage Ratio is a measurement of the cash flow available to pay current debt obligations. The ratio states net operating income as a multiple of debt obligations within one year, including interest and principal payments.

Net Revenues as of March 31, 2020

\$4.01 Million*



Maximum Debt Payment as of March 31, 2020

\$3.26 Million

ACTIVE ACCOUNTS

21,482

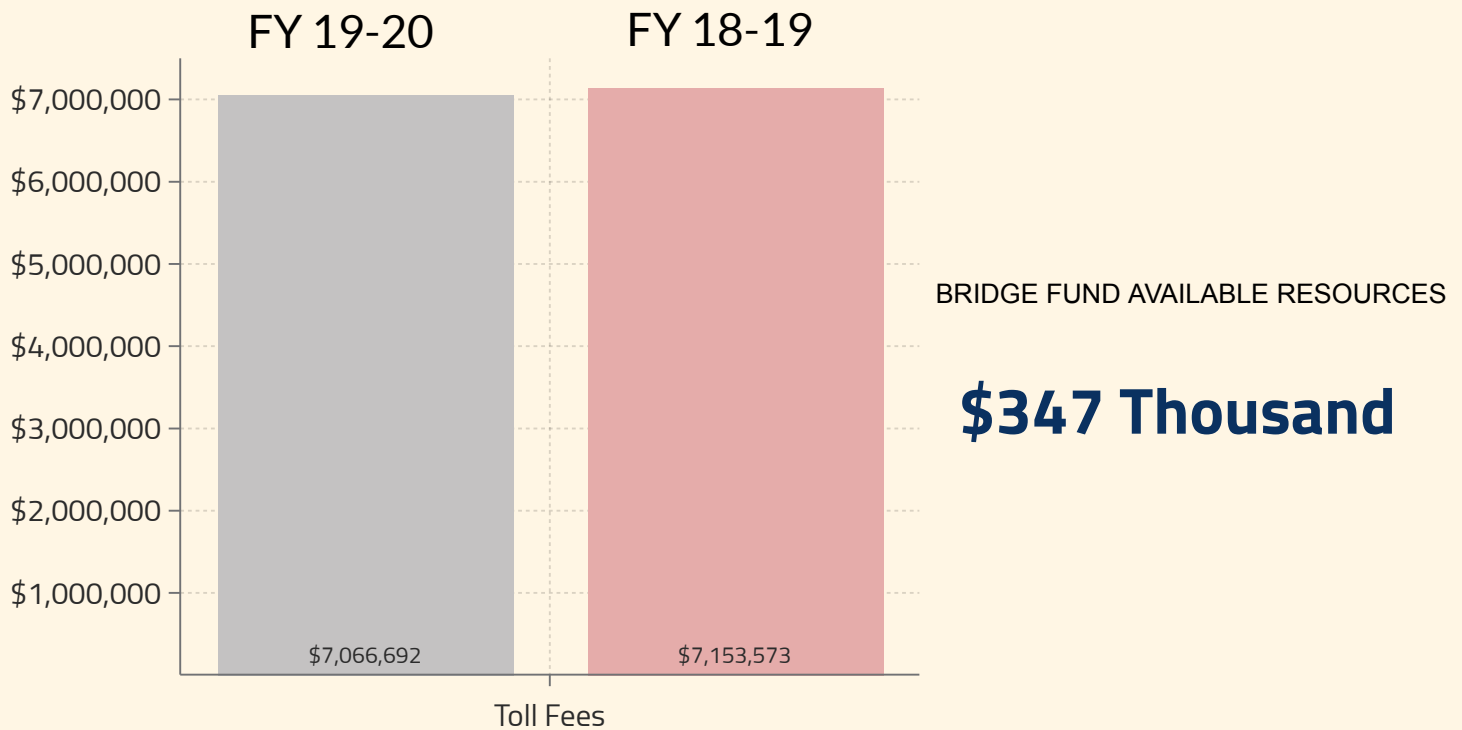
March 2020

*Includes Transfer Out to General Fund for this calculation

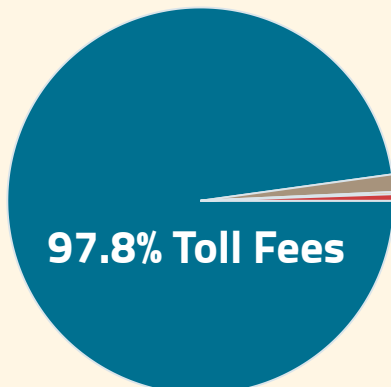
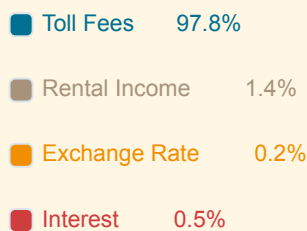
Bridge Fund Fiscal Facts as of March 2020

9

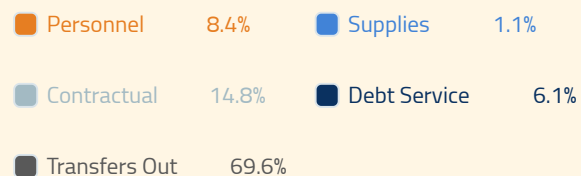
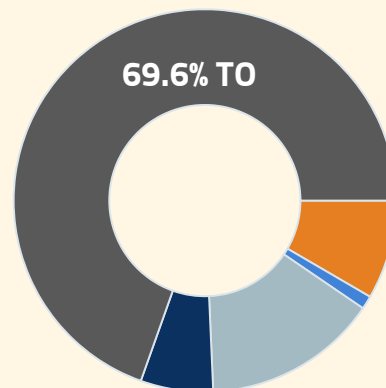
Toll Fees revenues have DECREASED -1% compared to last FY



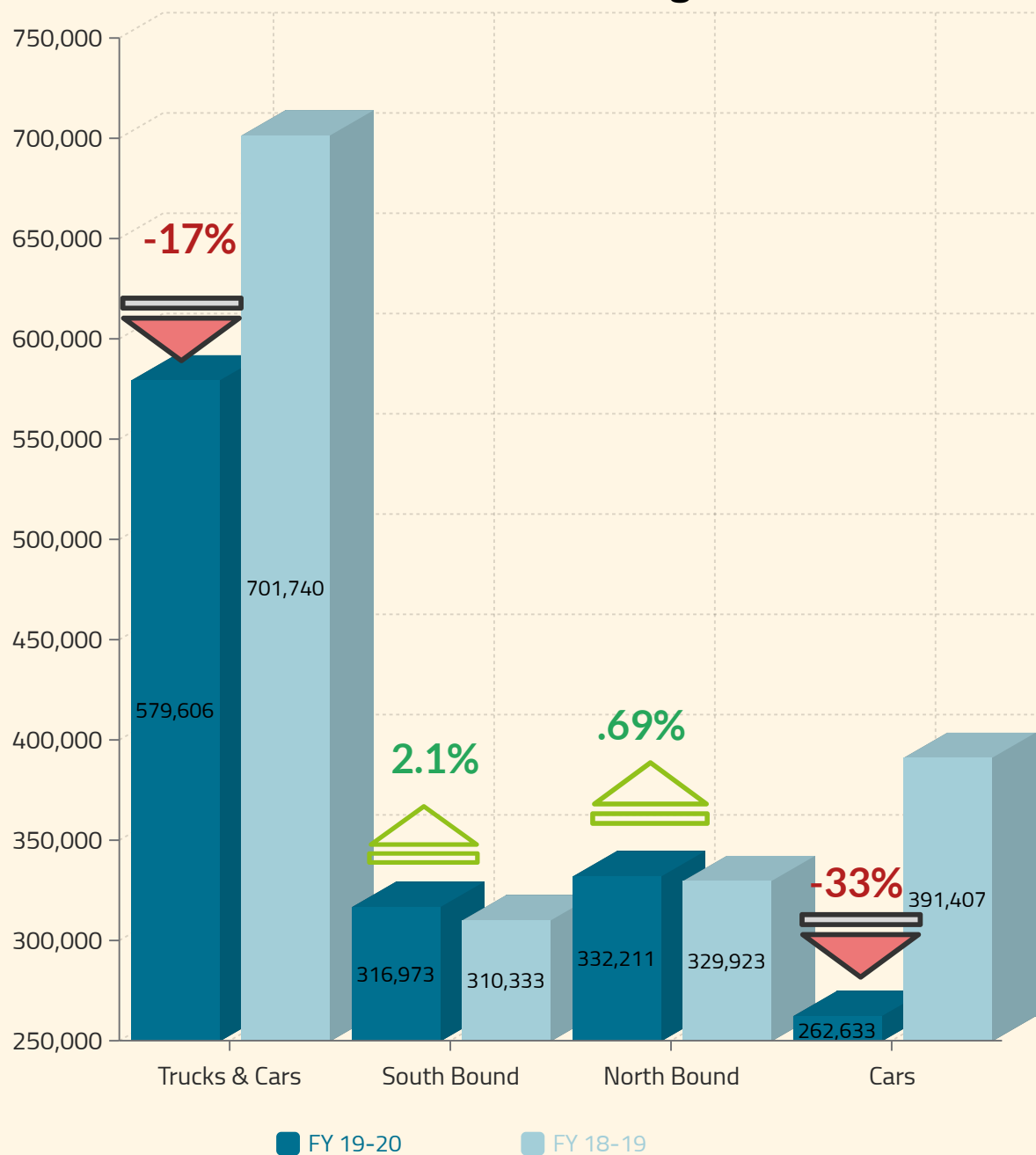
Revenues



Expenses



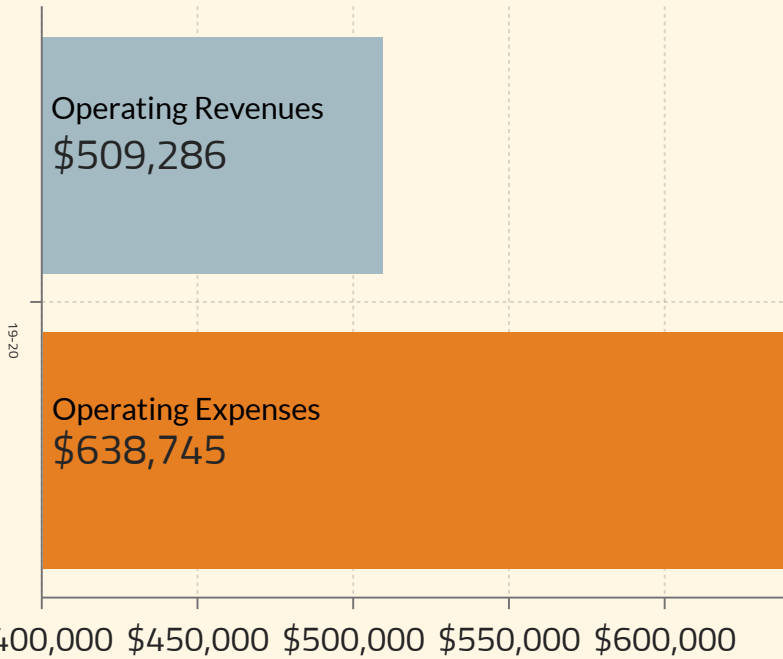
Number of Crossings



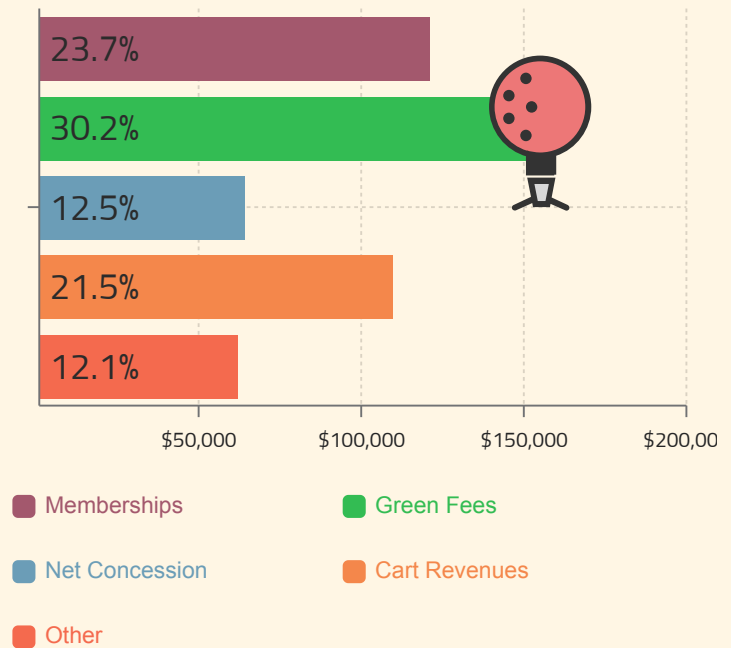
GOLF Fiscal Facts as of March 2020

11

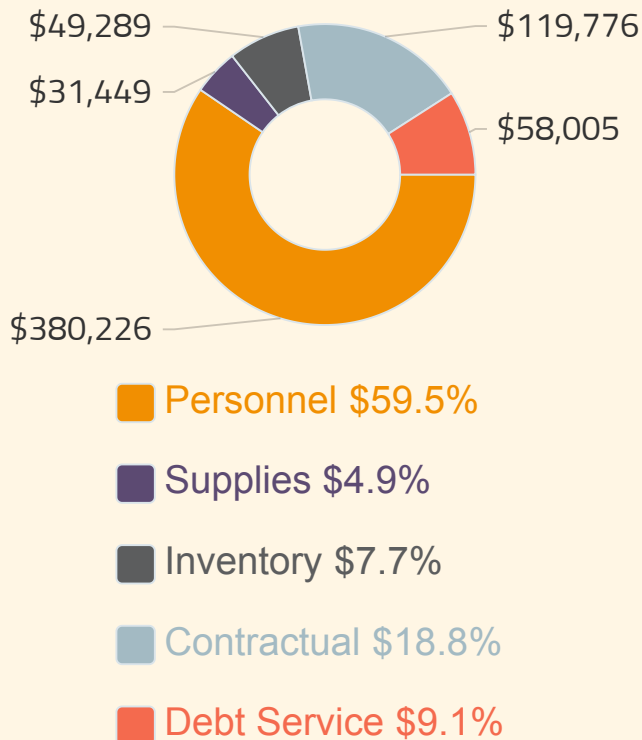
Operating Revenues and Expenses



Operating Revenue Distribution



Expenses

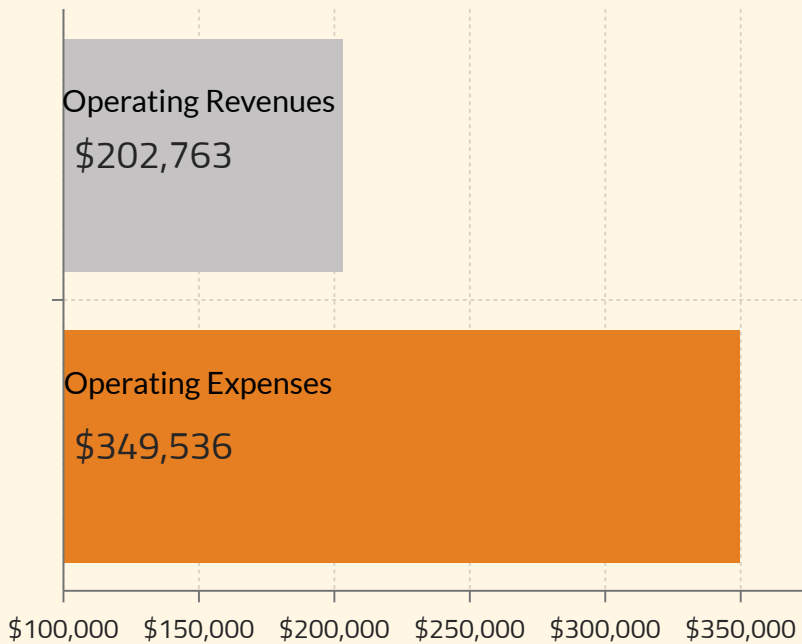


AS OF MARCH 2020,

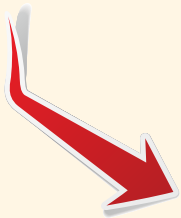
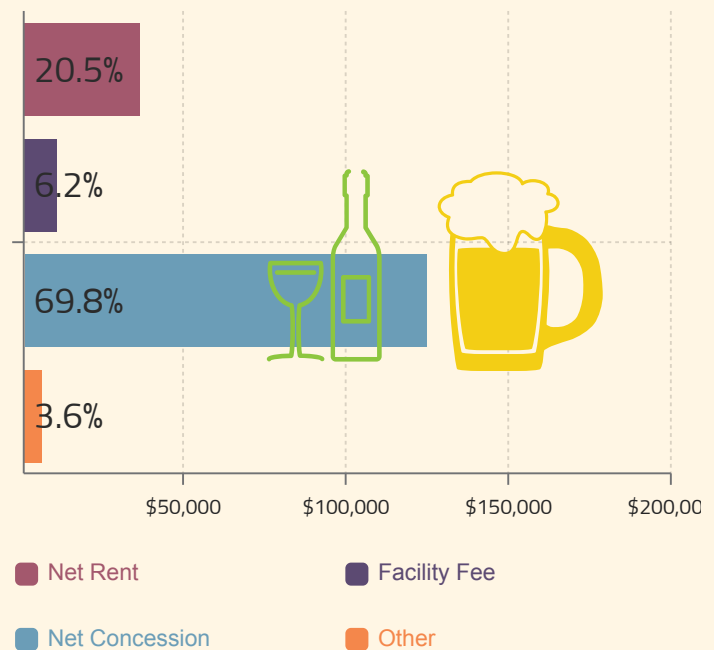
\$129,459

**Transferred from
General Fund to
Break Even**

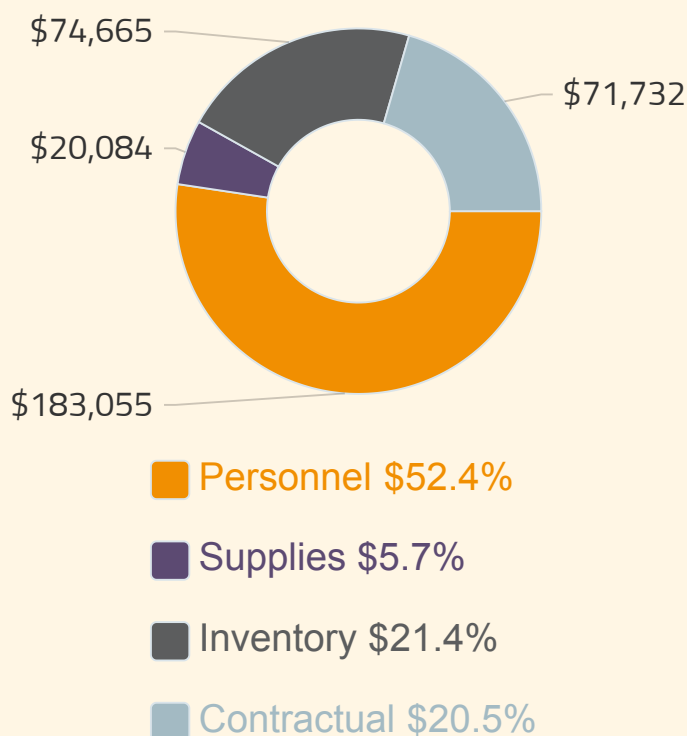
Operating Revenues and Expenses



Operating Revenue Distribution



Expenses



AS OF MARCH 2020,

\$146,773

**Transferred from
General Fund to
Break Even**



PEDC FUND AVAILABLE
RESOURCES

\$3.7 Million

NOTES RECEIVABLE

\$1.01

MILLION



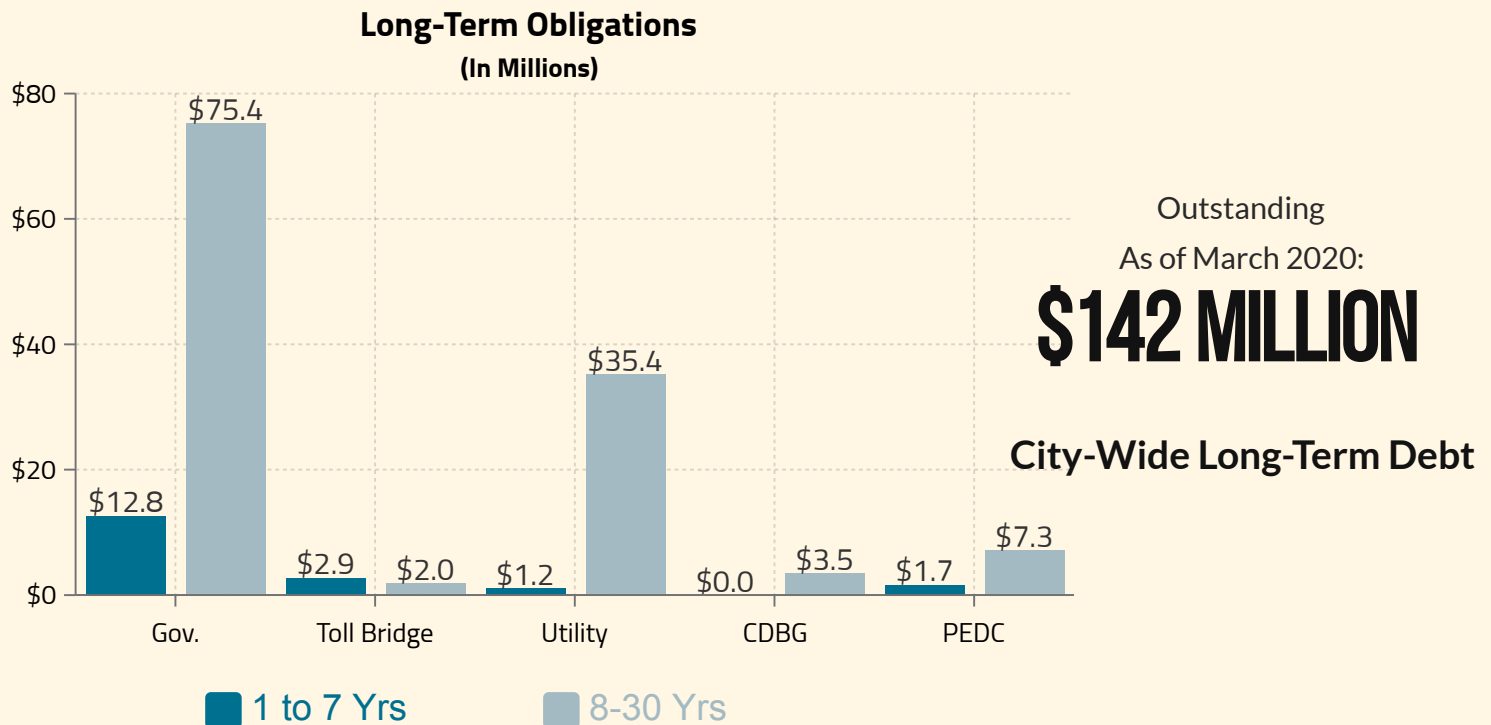
\$2.3

Million Land
Available for Sale



\$9 Million

OUTSTANDING IN DEBT
UNDER PHARR ECONOMIC
DEVELOPMENT CORPORATION



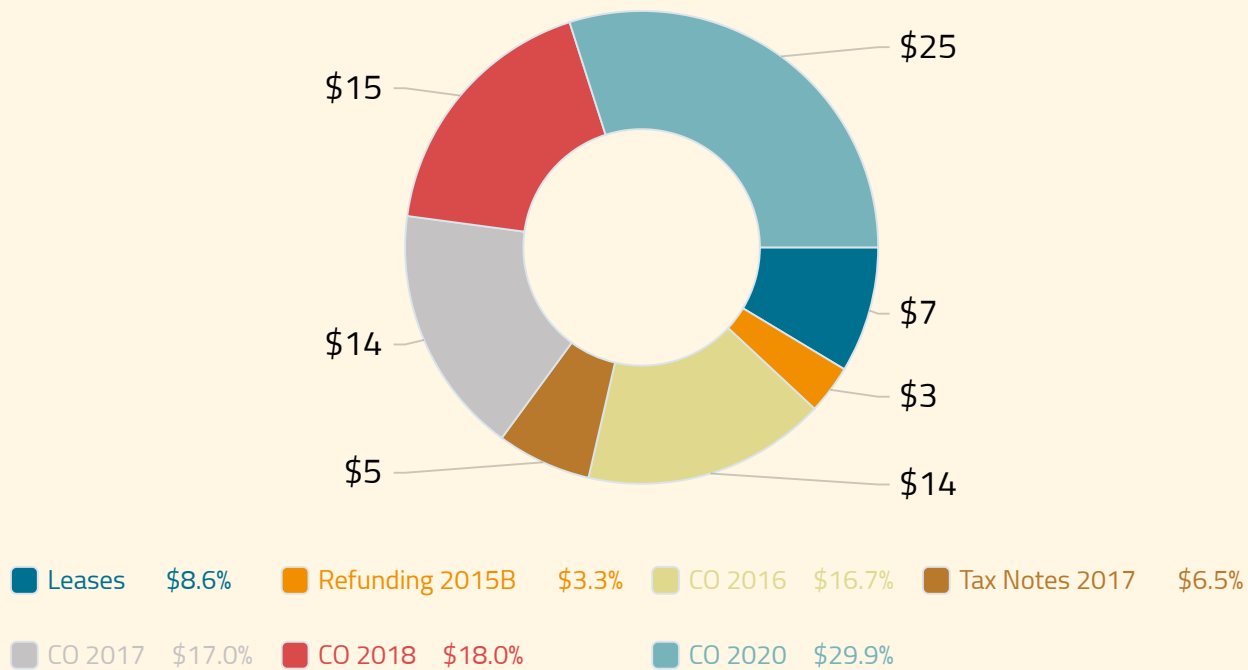
\$25
Million

Issued in Certificates of Obligations
through Private Placement for North
Aquatic Facility in **January 2020**.

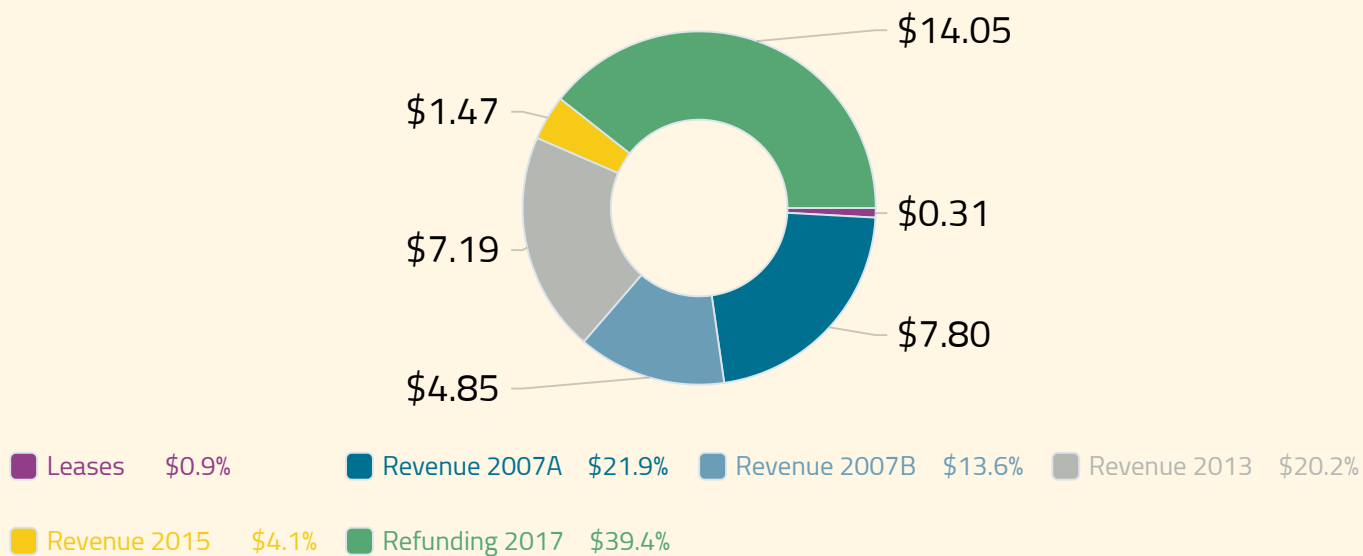
\$3.7
Million

Issued in Capital Leases for Capital
Equipment in **March 2020**.

Governmental (In Millions)



Utility Fund (In Millions)



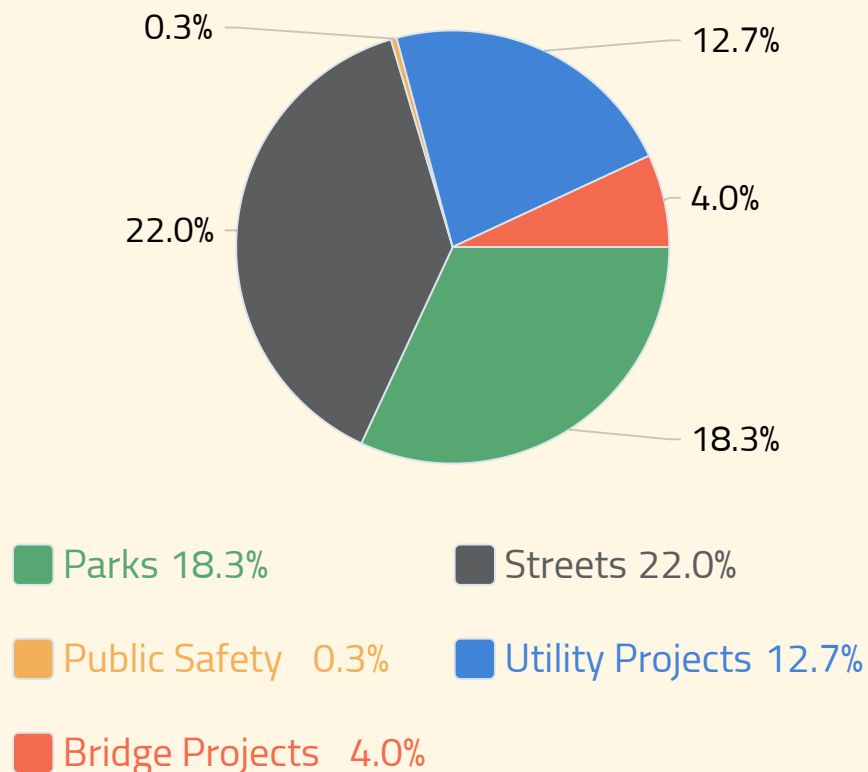
Governmental (In Millions)

Construction Category	Balance December 31, 2019	Expenses this Quarter	Completions this Quarter	Balance March 31, 2020
Parks	\$23.26	\$3.66	\$8.65	\$18.27
Streets	21.31	.69	-	\$22.00
Public Safety	7.25	.17	7.17	\$0.25
Total Governmental	\$51.82	\$4.52	\$15.82	\$40.52

Business-Type (In Millions)

Construction Category	Balance December 31, 2019	Expenses this Quarter	Completions this Quarter	Balance March 31, 2020
Utility Projects	\$8.36	\$4.37	-	\$12.73
Bridge	3.41	\$0.55	-	\$3.96
Total Business-Type	\$11.77	\$4.92	-	\$16.69
GRAND TOTAL	\$63.59	\$9.44	\$15.82	\$57.21

Construction Distribution





AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 3.D.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Karla Moya, Finance Director

DEPARTMENT: Finance

DIRECTOR:

Agenda Item: Submission of 2nd Quarter 2019-2020 City of Pharr Investment Report.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: This report is to comply with the Public Funds Investment Act Reporting requirements. In the past, we used to report Investments in the Quarterly Report. Finance is now recommending to issue a separate report as part of City Manager's Report every quarter.

Financial Consideration:

Staff Recommendation:

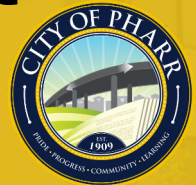
Alternatives:

ROUTING:

Karla Moya
Karla Moya
Patricia Rigney
City Management Office

Created/Initiated - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
Final Approval - 5/15/2020

City of Pharr Investment REPORT



2nd Quarter 2019-2020

Contents

Investment Report Summary - 01

Comparison of Portfolio - 02

Change in Market Value- 03

Weighted Average Maturity and Yield- 04

Benchmarks and Depository Collateral-05



City of Pharr, TX

Investment Report Summary

March 31, 2020



COMPLIANCE

This report complies with the requirements of the Public Funds Investment Act as well as the City of Pharr's adopted investment policy. The City is in compliance with all provisions of the Public Funds Investment Act and the City of Pharr's investment policy. The City's investment portfolio includes activity in demand deposits only, there are no other investment tools currently being utilized.

LIQUIDITY

The greatest length of maturity for all of our investments is 477 days. The weighted average maturity including demand deposits is 2.58 day and 1 day without demand deposits. Both of these amounts are within legal and City requirements.

CHANGE IN BOOK AND MARKET VALUE

The investment book value was roughly **\$102.62 million** and had increased by approximately \$19.9 million from the previous quarter. This increase was expected during this quarter due to property tax increase in collections for this new tax year 2019.

PORTFOLIO YIELD

The portfolio yield of 1.25% was higher than the benchmark yields on the six month T-Bill and Average Federal Funds Rate, which were 0.65% and 0.15% respectively (per Federal Reserve website yield postings). The spread between the portfolio yield and the benchmark yield is mainly due to the depository's favorable interest rate. Safety and liquidity is a greater concern than yield.

INVESTMENT MATURITIES/PURCHASES

There were no investments that were purchased or matured during the quarter. All other transactions were routine. The attached schedules are also a part of this investment report.

Karla Saavedra, CGFO
Finance Director

City of Pharr, TX

Comparison of Portfolio to Policy Limits

as of March 31, 2020

Limits on Types of Securities	Target Investment Level	Portfolio Cap	Actual Percentage of Portfolio	Positive/(Negative) % Variance Policy Limits
Demand Deposits	N/A	N/A	99.27%	N/A
Certificates of Deposits	10%	30%	0.59%	29.41%
U.S. Treasury Obligations	30%	80%	0.00%	80.00%
U.S. Government Securities	30%	50%	0.00%	50.00%
Public Funds Investment Pools	30%	80%	0.14%	79.86%

Limits on Maturities	Minimum Allowable % of Portfolio	Actual Percentage of Portfolio	Positive/(Negative) % Variance Policy Limits
Available within 1 month	25%	99.27%	74.27%
Available within 3 months	33%	99.41%	66.41%
Available within 6 months	50%	99.41%	49.41%
Available within 1 year	70%	99.41%	29.41%
Available within 2 years	100%	100%	N/A

	Maximum Allowable	Maximum Actual Maturity	Policy Limit Days Available
Days to Maturity	730	477	253

City of Pharr, TX Market Value Analysis March 31, 2020

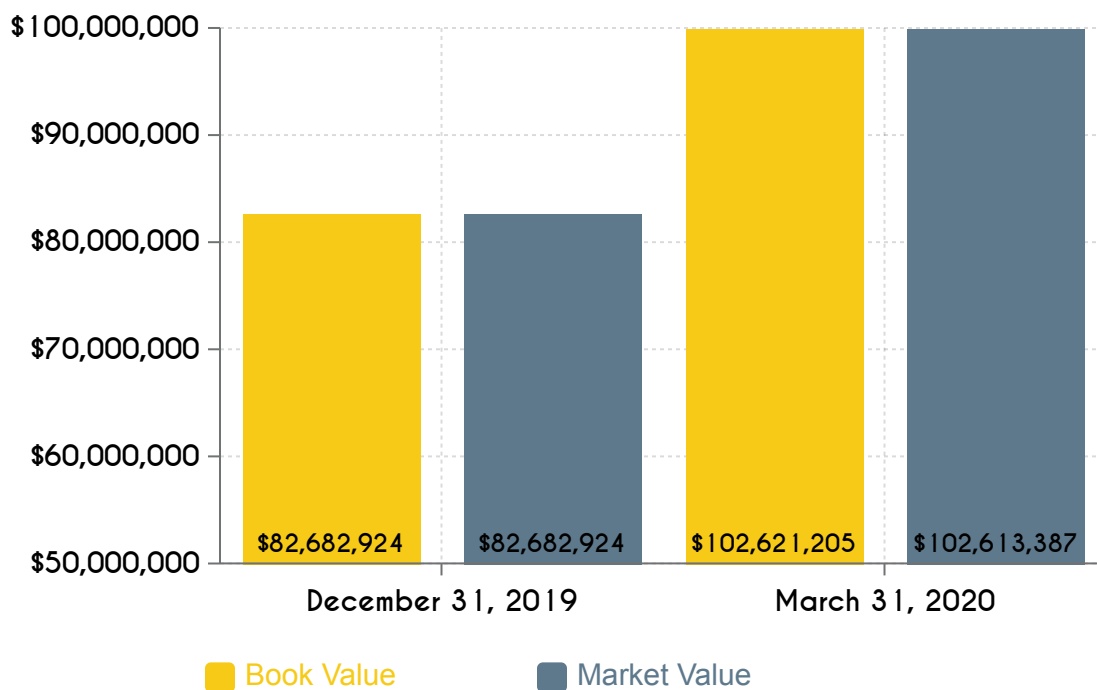
Beginning Value-December 31, 2019	\$82,682,924
-----------------------------------	--------------

Investment Activity:

Purchases	
	7.818
Net Changes in Market Price	

Bank and Pooled Investment Deposits/(Withdrawals)-Net	\$19,930,463
---	--------------

Ending Value-March 31, 2020	\$102,621,205
-----------------------------	---------------





99.27%

or \$101.8 Million
in Demand Deposits
at Lone Star National Bank
at 1.25% YTM



.59%

or \$607,547 thousand
in Certificates of Deposit
at Lone Star National Bank
at 1.5% YTM



.14%

or \$143,122 thousand
in Investment Pool at TexPool
2.10% YTM

2.58

Weighted Average Days to
Maturity

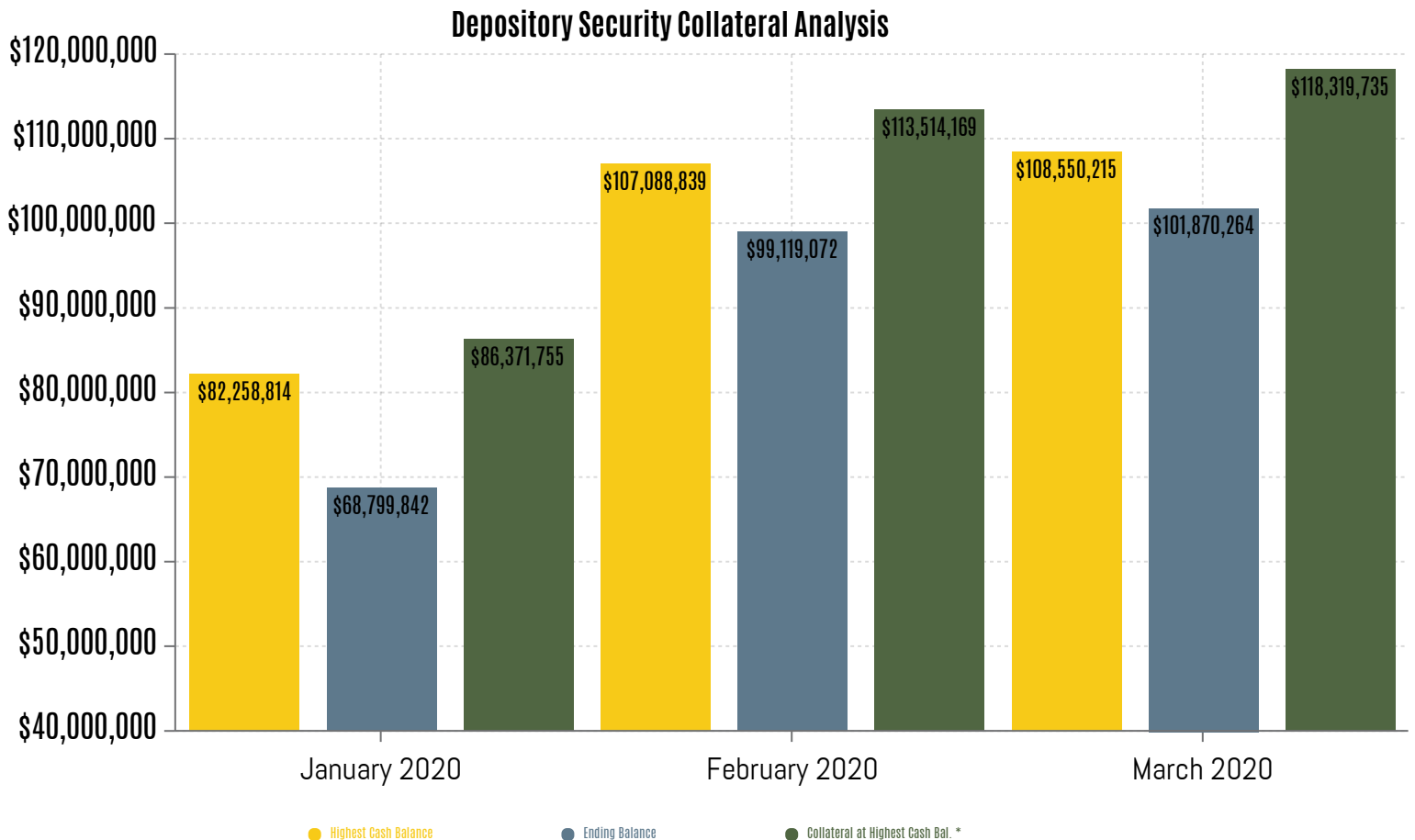
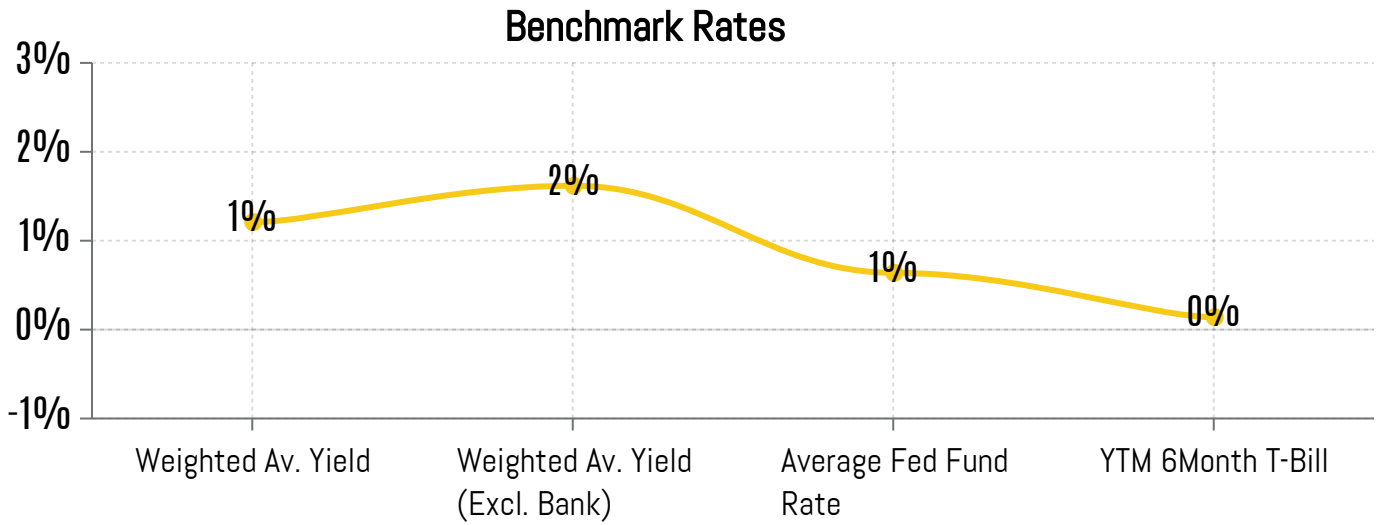
1.62

Weighted Average Days to
Maturity-(Excl. depository bank)

City of Pharr, TX

Market Value Analysis

March 31, 2020



* Calculated as percentage above highest cash balance per LSNB



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 4.A.

DATE SUBMITTED: May 12, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR: Edward Wylie

Agenda Item: Approval of Minutes for May 4, 2020 Regular Called Meeting.

Classification: Consent

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue:

Financial Consideration:

Staff Recommendation: Staff recommends approval.

Alternatives:

ROUTING:

Hilda Pedraza
City Management Office

Created/Initiated - 5/12/2020
Final Approval - 5/15/2020

**MINUTES
BOARD OF COMMISSIONERS
REGULAR CALLED MEETING
MONDAY, MAY 4, 2020
118 SOUTH CAGE 2nd FLOOR**

The Board of Commissioners of the City of Pharr, Texas, met in a Regular Called Meeting on Monday, May 4, 2020 via videoconference and following is the record of attendance.

BOARD OF COMMISSIONERS PRESENT: Mayor Ambrosio Hernandez
Mayor Pro Tem Roberto "Bobby" Carrillo
Comm. Ramiro Caballero

**BOARD OF COMMISSIONERS PRESENT
VIA VIDEOCONFERENCE:** Comm. Daniel Chavez
Comm. Itza Flores

BOARD OF COMMISSIONERS ABSENT: Comm. Eleazar Guajardo
Comm. Ricardo Medina

STAFF PRESENT: Edward Wylie, Interim City Manager
Anali Alanis, Assistant City Manager
Hilda Pedraza, ACM/City Clerk
Omar Anzaldua, City Engineer
Karla Saavedra, Finance Director
Gary Rodriguez, Events Center Director
Marissa Hernandez, Municipal Court Judge
Jose A. Luengo, Police Chief
Leonardo Perez, Fire Chief
Melanie Cano, Dev. Services Director
Pilar Rodriguez, Interim Public Works Dir.
Sergio Alanis, Parks & Rec. Director
Raul Garza, CDBG Director
Adolfo Garcia, Library Director
Jose Pena, I.T. Director
Luis Bazan, Bridge Director
Ignacio Amezcua, Purchasing Director
Kenneth Ennis, Asst. Comm. Director

CITY ATTORNEY Patricia Rigney, City Attorney

ITEM 1. CALL TO ORDER

**A) ROLL CALL AND POSSIBLE ACTION ON THE EXCUSING OF ANY ABSENT
MEMBER OF THE GOVERNING BOARD.**

Mayor Hernandez called the meeting to order at 4:04 p.m. Roll call established a quorum.

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Comm. Carrillo moved to excuse the absent members. Mayor Hernandez seconded the motion and when put to a vote, it carried unanimously.

B) PLEDGE OF ALLEGIANCE/INVOCATION

Ed Wylie, Interim City Manager, led in the pledge of allegiance and Anali Alanis, Assistant City Manager, said the invocation.

ITEM 2. PUBLIC TESTIMONY

There were no comments from the public.

ITEM 3. CITY MANAGER'S REPORTS

A) CITY ENGINEER'S REPORT.

Ed Wylie, Interim City Manager, introduced the item. He stated projects were on track and stated questions could be entertained at this time.

ITEM 4. CONSENT AGENDA

- A) APPROVAL OF MINUTES FOR APRIL 20, 2020 REGULAR CALLED MEETING. (ADMINISTRATION)**
- B) CONSIDERATION AND ACTION ON REQUEST FROM HIDALGO COUNTY ELECTIONS DEPARTMENT TO USE THE JOSE "PEPE" SALINAS CIVIC CENTER AND THE PHARR DEVELOPMENT AND RESEARCH CENTER AS POLLING LOCATIONS FOR THE UPCOMING PRIMARY RUNOFF ELECTION ON JULY 14, 2020 (ADMINISTRATION)**
- C) CONSIDERATION AND ACTION AUTHORIZING CITY MANAGER TO ADVERTISE FOR REQUEST FOR QUALIFICATIONS (RFQ) TO DEVELOP THE PHARR COMPREHENSIVE PEDESTRIAN SAFETY AND WELLNESS PLAN (CSJ #0921-02-389) (ENGINEERING)**
- D) CONSIDERATION AND ACTION AUTHORIZING CITY MANAGER TO ADVERTISE FOR SIDEWALK IMPROVEMENTS ON EAST HELMER STREET AND SOUTH CAGE BOULEVARD (ENGINEERING)**
- E) CONSIDERATION AND ACTION AUTHORIZING CITY MANAGER TO ADVERTISE FOR THE PHARR PEDESTRIAN CONNECTIONS SIDEWALK PROJECT (ENGINEERING)**

- F) **CONSIDERATION AND ACTION AUTHORIZING CITY MANAGER TO ADVERTISE FOR REQUEST FOR PROPOSALS (RFP) FOR THE LEASING OF RESTAURANT SERVICES LOCATED AT CITY HALL 1ST FLOOR (PROJECT #1920-01-510-S036-001) (ADMINISTRATION)**
- G) **CONSIDERATION AND ACTION AUTHORIZING THE CITY MANAGER TO ADVERTISE TO COMPETITIVE SEALED PROPOSALS (CSP) FOR THE CONSTRUCTION OF THE CITY HALL 1ST FLOOR RENOVATION PROJECT (PROJECT NO. 1920-40-510-C008-755) (ENGINEERING)**
- H) **PLATS:**
1. **SPOOR ENGINEERING CONSULTANTS, INC., REPRESENTING AMELIO RIVAS JR. AND GLORIA M. RIVAS, OWNERS, REQUESTED FINAL PLAT APPROVAL OF THE PROPOSED ROXANNE RIVAS SUBDIVISION. THE PROPERTY IS LEGALLY DESCRIBED AS BEING A 0.35 ACRE TRACT OF LAND OUT OF A 3.00 ACRE TRACT OF LAND, OUT OF THE SOUTH 24.19 ACRES OF LOT 5, BLOCK 12, A.J. MCCOLL SUBDIVISION, PHARR, HIDALGO COUNTY, TEXAS. THE PROPERTY IS LOCATED WITHIN THE 1600 BLOCK OF WEST ANAYA ROAD. SUB#190514 (DEVELOPMENT SERVICES)**
 2. **MELDEN & HUNT, INC., REPRESENTING ABEL HERNANDEZ-LONGORIA JR., MANAGER FOR HAWTHORNE BROOKS, L.L.C., REQUESTED FINAL PLAT APPROVAL OF THE PROPOSED MINNESOTA HILLS SUBDIVISION. THE PROPERTY IS LEGALLY DESCRIBED AS BEING A RE-SUBDIVISION OF 10.00 ACRES OUT OF LOT 82, KELLY-PHARR SUBDIVISION, PHARR, HIDALGO COUNTY, TEXAS. THE PROPERTY IS LOCATED WITHIN THE 1000 BLOCK OF EAST MINNESOTA ROAD. SUB#180716 (DEVELOPMENT SERVICES)**

Ed Wylie, Interim City Manager, introduced the item and recommended approval of consent agenda.

Comm. Carrillo **moved** to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

REGULAR AGENDA - OPEN SESSION

ITEM 5. ORDINANCES AND RESOLUTIONS

- A) **CONSIDERATION AND ACTION, IF ANY, ON ORDINANCE WAIVING PENALTIES AND INTEREST ON LATE HOTEL OCCUPANCY TAX PAYMENTS. (ADOPTION ON 1ST READING) (ADMINISTRATION)**

Ed Wylie, Interim City Manager, introduced the item. He briefly stated the City of Pharr received a request from local hotels requesting assistance in this time of crisis. At

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this time, he requested waving the penalties and interest for late payments from March 2020 through September 2020 and recommended approval.

Comm. Caballero **moved** to approve as recommended. Comm. Carrillo seconded the motion and when put to a vote, it carried unanimously.

Ordinance No. O-2020-16 is filed with the City Clerk's Office.

B) CONSIDERATION AND ACTION, IF ANY, ON ORDINANCE AMENDING ORDINANCE NO. O-2014-21 TO ALLOW TEMPORARY SIGNS FOR COMMERCIAL ESTABLISHMENTS (ADOPTION ON 1ST READING) (DEVELOPMENT SERVICES)

Ed Wylie, Interim City Manager, introduced the item and briefly explained the economy of the City of Pharr has been affected by COVID-19. Since the current ordinance city ordinance does not allow for temporary signage, he recommended amending the ordinance to allow businesses temporary signs with no permit fees for the next six months.

Comm. Carrillo **moved** to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

Ordinance No. O-2020-17 is filed with the City Clerk's Office.

C) CONSIDERATION AND ACTION, IF ANY, ON RESOLUTION EXECUTING AN ADVANCE FUNDING AGREEMENT (AFA) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE COMMERCIAL VEHICLE STAGING AREA, CSJ: 0921-02-423. (TABLED) (ENGINEERING)

Ed Wylie, Interim City Manager, introduced the item and recommended item remain tabled.

D) CONSIDERATION AND ACTION, IF ANY, ON RESOLUTION EXECUTING AN ADVANCE FUNDING AGREEMENT (AFA) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE DOCK EXPANSION PHASE I (DRY UNITS) AT PHARR INTERNATIONAL BRIDGE, CSJ: 0921-02-424. (TABLED) (ENGINEERING)

Ed Wylie, Interim City Manager, introduced the item and recommended item remain tabled.

- E) CONSIDERATION AND ACTION, IF ANY, ON RESOLUTION EXECUTING AN ADVANCE FUNDING AGREEMENT (AFA) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE DOCK EXPANSION PHASE II (COLD UNITS) AT PHARR INTERNATIONAL BRIDGE, CSJ: 0921-02-425. (TABLED) (ENGINEERING)**

Ed Wylie, Interim City Manager, introduced the item and recommended item remain tabled.

- F) CONSIDERATION AND ACTION, IF ANY, ON RESOLUTION APPOINTING/RE-APPOINTING CITY CLERK AND ASSISTANT CITY CLERK (ADMINISTRATION)**

Ed Wylie, Interim City Manager, introduced the item. He stated as per City Charter, the City Clerk and Assistant City Clerk were appointed every two years and recommended reappointment of Hilda Pedraza, City Clerk and Imelda Barrera, Assistant City Clerk.

Comm. Carrillo moved to reappoint Hilda Pedraza as City Clerk and Imelda Barrera as Assistant City Clerk. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

Resolution No. R-2020-21 is filed with the City Clerk's Office.

- G) CONSIDERATION AND ACTION, IF ANY, ON RESOLUTION EXECUTING AN ADVANCE FUNDING AGREEMENT (AFA) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE PSJA TRI-CITY PEDESTRIAN SAFETY IMPROVEMENTS PHASE II, CSJ: 0921-02-432 (ENGINEERING)**

Ed Wylie, Interim City Manager, introduced the item and stated this was Phase II of the sidewalk project. He stated the state recovery costs were \$141,632 and the first payment was \$86,000 and second payment was \$54,921. He further stated this project was initially approved in Fiscal Year 2017 and it included all three cities and PSJA ISD. He stated the Interlocal Agreements with the other cities and the school district were still pending but the City could off-share the cost for the project.

Mayor Hernandez clarified the three cities and PSJA ISD would participate and PSJA ISD would prioritize the locations of the sidewalks for their students. He further stated this project was approximately \$2.7 Million and the City of Pharr would wait until PSJA ISD provides the preferred sites/schools for these sidewalks.

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There being no further comments, Comm. Carrillo moved to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

Resolution No. R-2020-22 is filed with the City Clerk's Office.

ITEM 6. ADMINISTRATIVE

- A) CONSIDERATION AND ACTION, IF ANY, AUTHORIZING THE CITY MANAGER TO SOLICIT A SCOPE AND FEE PROPOSAL FROM AN ENGINEERING FIRM ON THE APPROVED LIST OF ENGINEERS, AND NEGOTIATE AND ENTER INTO A CONTRACT FOR THE DESIGN OF THE PSJA TRI-CITY PEDESTRIAN SAFETY IMPROVEMENTS PROJECT-PHASE II (ENGINEERING)**

Ed Wylie, Interim City Manager, introduced the item. He stated this was for the design of phase II and recommended approval.

Comm. Carrillo moved to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

ITEM 7. PURCHASING

- A) CONSIDERATION, AND ACTION IF ANY, ON THE PURCHASE OF SAFETY EQUIPMENT FOR THE PHARR POLICE DEPARTMENT SPECIAL RESPONSE TEAM (SRT) USING BUY BOARD # 587-19 (PROJECT NO.1920-21-512-P022-001) (POLICE)**

Ed Wylie, Interim City Manager, introduced the item. He stated this was for the purchase of equipment with seized asset funds in the amount of \$56,275.28 and recommended approval.

Comm. Carrillo moved to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

- B) CONSIDERATION AND ACTION, IF ANY, ON THE PURCHASE OF A GENERATOR SWITCHBOARD CONNECTION FOR THE PHARR EVENTS CENTER (PROJECT #1920-01-530-P021-003) (PARKS)**

Ed Wylie, Interim City Manager, introduced the item. He briefly stated the Pharr Events Center could possibly be used as a shelter due to COVID-19 pandemic and the purchase of emergency generator with back-up power was needed. Mr. Wylie further stated the cost was \$63,000 and recommended approval.

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Comm. Carrillo **moved** to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

ITEM 8. CONTRACTS/AGREEMENTS

- A) CONSIDERATION AND ACTION, IF ANY, AUTHORIZING THE CITY MANAGER TO AMEND CONTRACT WITH CAROLLO ENGINEERS INC. IN THE AMOUNT OF \$78,875.00 FOR ADDITIONAL ENGINEERING SERVICES FOR THE ELECTRICAL DESIGN MODIFICATION OF THE WASTEWATER TREATMENT PLANT OXIDATION DITCH NO. 2 AND ELECTRICAL IMPROVEMENTS PROJECT (PROJECT #1819-60-584-S010-001) (ENGINEERING)**

Ed Wylie, Interim City Manager, introduced the item and explained this was to separate the site electrical improvements into another project. He further stated the engineering for the electrical work and project would total approximately \$6 million and recommended approval.

Comm. Carrillo **moved** to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried by majority vote of four (4) ayes and one (1) abstention. Comm. Chavez abstained from voting.

- B) CONSIDERATION AND ACTION, IF ANY, ON CHANGE ORDER FOR ADDITIONAL PROJECT HOURS NEEDED TO COMPLETE ACCELA PROJECT (PROJECT # 1617-01-527-P011-001) (IT)**

Ed Wylie, Interim City Manager, introduced the item. He stated there was some work left out from previous directors and additional eighty (80) hours were needed to finalize the project. He stated the amount was \$12,173.60 and recommended approval.

Comm. Carrillo **moved** to approve as recommended. Comm. Caballero seconded the motion and when put to a vote, it carried unanimously.

ITEM 9. CLOSED SESSION: IN ACCORDANCE WITH CHAPTER 551 OF THE TEXAS GOV'T. CODE, THE PHARR BOARD OF COMMISSIONERS HEREBY GIVES NOTICE THAT IT MAY MEET IN A CLOSED (NON-PUBLIC) EXECUTIVE SESSION TO DISCUSS THE ITEMS LISTED ON THE PUBLIC PORTION OF THE MEETING AGENDA IN ACCORDANCE WITH THE FOLLOWING BELOW

None.

ITEM 10. RECONVENE

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None.

ITEM 11. ADJOURNMENT

There being no other business to come before the board, Comm. Carrillo **moved** to adjourn. Comm. Caballero seconded the motion and when put to a vote, the motion carried unanimously. Meeting adjourned at 4:17 p.m.

CITY OF PHARR

AMBROSIO HERNANDEZ
MAYOR

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF PHARR**

ON THIS THE 4th DAY OF MAY 2020 the Board of Commissioners of the City of Pharr, Texas convened in a **REGULAR CALLED MEETING** at the Commissioner's Room located at 118 S. Cage, 2nd Floor, Pharr, Texas. The meeting being open to the public and notice of said meeting, giving the date, place, subject, hereof, having been posted in accordance with Chapter 551, Texas Government Code (Open Meetings Act) and there being present a quorum, I, **HILDA PEDRAZA, CITY CLERK**, of the City of Pharr, Teas, certify that this is a true and correct copy of the minutes.

ATTEST:

HILDA PEDRAZA, CITY CLERK

APPROVED:



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 4.B.

DATE SUBMITTED: May 14, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: PLATS:

Classification: Consent

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue:

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Hilda Pedraza

Created/Initiated - 5/14/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 4.B.1.

DATE SUBMITTED: May 12, 2020

MEETING DATE: May 18, 2020

FROM: Iris Mata, Secretary

DEPARTMENT: Development Services

DIRECTOR: Melanie Cano

Agenda Item: CLH Engineering, Inc., representing Jose M. Guerra Cantu, Managing Member for KASAVA, L.L.C, A Texas Limited Liability Company, is requesting final plat approval of the proposed JG Customs Forwarding 2 Subdivision. The property is legally described as being the west 9.93 acres of land of Lot 8, Closner Subdivision of Porcion, Pharr, Hidalgo County, Texas. The property is located within the 1300 Block of East Military Highway. **SUB#190203**

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: CLH Engineering, Inc., representing Jose M. Guerra Cantu, Managing Member for KASAVA, L.L.C, A Texas Limited Liability Company, is requesting final plat approval of the proposed JG Customs Forwarding 2 Subdivision. **SUB#190203**

Financial Consideration:

Staff Recommendation: Development Services recommends final plat approval of the proposed JG Customs Forwarding 2 Subdivision subject to the listed conditions set before you.

The Planning and Zoning Commission voted unanimously to approve the final plat of the proposed JG Customs Forwarding 2 Subdivision.

Alternatives:

ROUTING:

Iris Mata
Rita Galvan
Roland Gomez

Created/Initiated - 5/12/2020
Approved - 5/12/2020
Approved - 5/12/2020

Melanie Cano
City Management Office

Approved - 5/13/2020
Final Approval - 5/15/2020



Pharr

Development Services



MEMORANDUM

DATE: MONDAY, MAY 18, 2020

TO: MAYOR AND CITY COMMISSION

FROM: MELANIE CANO, DIRECTOR OF DEVELOPMENT SERVICES

THROUGH: EDWARD WYLIE, INTERIM CITY MANAGER

SUBJECT: JG CUSTOMS FORWARDING 2 SUBDIVISION FILE NO. SUB#190203

GENERAL INFORMATION:

APPLICANT: CLH Engineering, Inc., representing Jose M. Guerra Cantu, Managing Member for KASAVA, L.L.C, A Texas Limited Liability Company, is requesting final plat approval of the proposed JG Customs Forwarding 2 Subdivision.

LEGAL DESCRIPTION: The property is legally described as being the west 9.93 acres of land of Lot 8, Closner Subdivision of Porcion, Pharr, Hidalgo County, Texas.

LOCATION: The property is located within the 1300 Block of East Military Highway.

ZONING: The property is currently zoned Limited Industrial District (L-I). The adjacent zones are Single Family Residential District (R-1) to the north, Agricultural Open Space District (A-O) to the east, Limited Industrial District (L-I) and Heavy Commercial District (H-C) to the south and Limited Industrial District (L-I) to the west. The property is designated for industrial use in the Land Use Plan.

PROPERTY PROPOSED USE: Warehouse.

VARIANCES: None requested.

RECOMMENDATIONS: Development Services recommends final plat approval of the proposed JG Customs Forwarding 2 Subdivision subject to the following conditions set before you.

**STREETS, PAVING
AND R.O.W.:** 1. In compliance.

EASEMENTS: 1. In compliance.

**SIDEWALK:
ADA:** 1. In compliance.

FIRE PROTECTION: 1. In compliance.

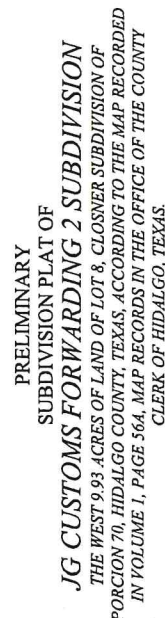
WATER: 1. In compliance

SEWER: 1. In compliance.

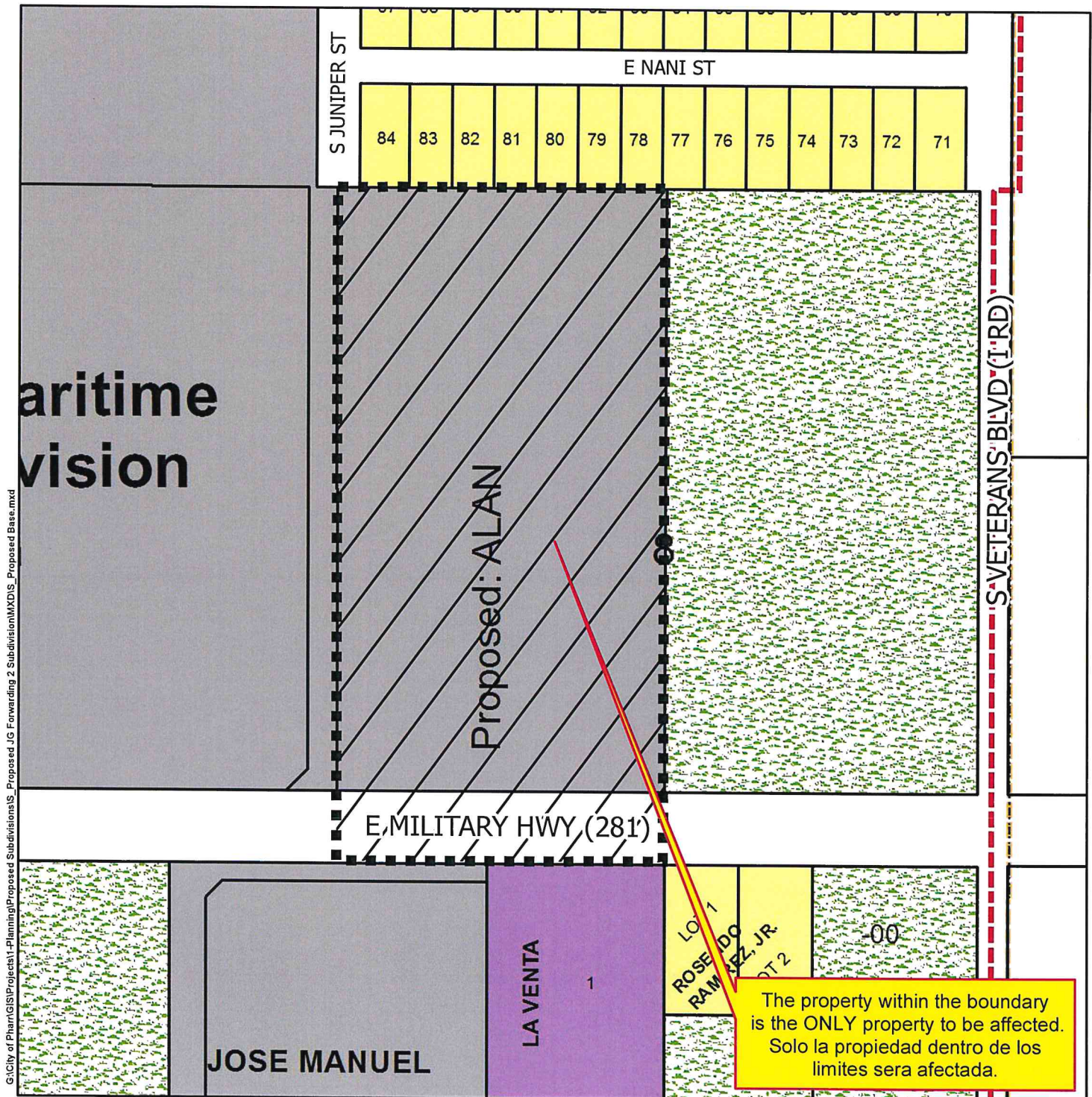
DRAINAGE: 1. In compliance.

OTHER: 1. In compliance.

**PLANNING AND
ZONING
COMMISSION:** The Planning and Zoning Commission voted unanimously to approve the final plat of the proposed JG Customs Forwarding 2 Subdivision

CLH
ENGINEERING, INC.

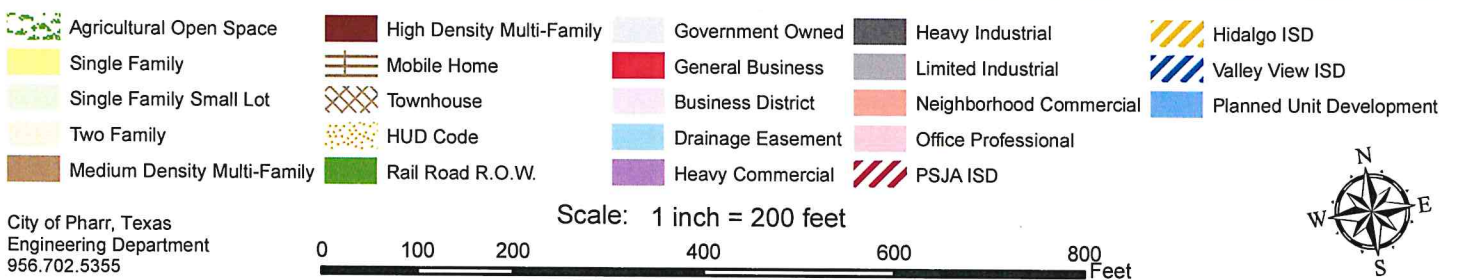
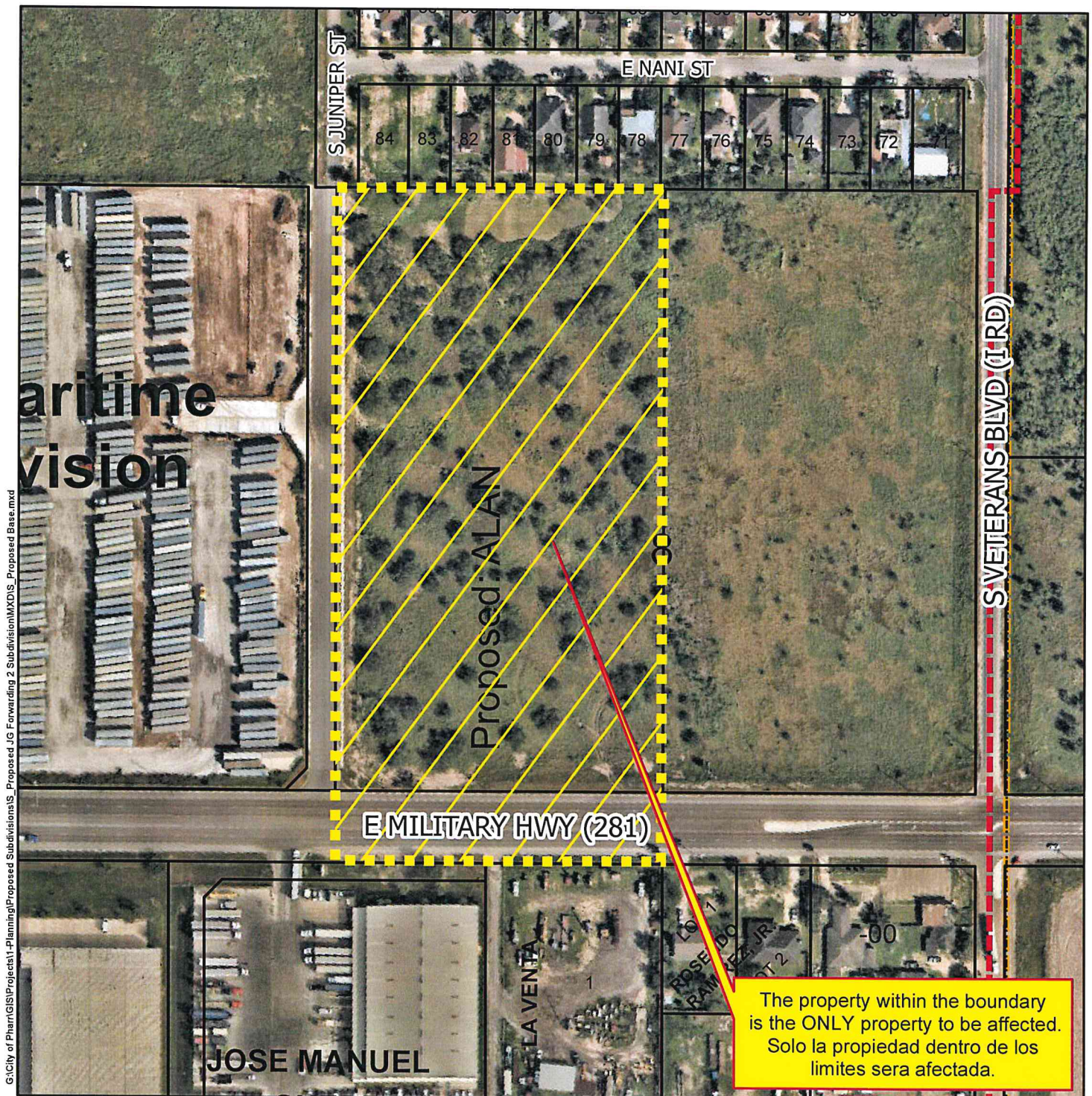
DATE OF PREPARATION: APRIL 9, 2019



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- | | | | | |
|-----------------------------|---------------------------|-------------------|-------------------------|--------------------------|
| Agricultural Open Space | High Density Multi-Family | Government Owned | Heavy Industrial | Hidalgo ISD |
| Single Family | Mobile Home | General Business | Limited Industrial | Valley View ISD |
| Single Family Small Lot | Townhouse | Business District | Neighborhood Commercial | Planned Unit Development |
| Two Family | HUD Code | Drainage Easement | Office Professional | |
| Medium Density Multi-Family | Rail Road R.O.W. | Heavy Commercial | PSJA ISD | |







AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.A.

DATE SUBMITTED: May 12, 2020

MEETING DATE: May 18, 2020

FROM: Rita Galvan, Secretary

DEPARTMENT: Development Services

DIRECTOR:

Agenda Item: Consideration and action, if any, on Ordinance waiving renewal fees for conditional use permits for on-premise consumption and health permit renewals.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The economy of the City of Pharr has been directly affected in response to COVID-19. The City Commission and City Staff recognize the challenges that businesses and food establishments are facing during this time and this is an option to assist in providing some relief to the current situation.

CUP ABC renewal fee: \$250.00

Health Permit renewal fee: \$50.00 - \$100.00

Financial Consideration: Waiving the renewal fees will be for a period of 90-days. Minimal fiscal impact.

Staff Recommendation: Staff recommends approval.

Alternatives:

ROUTING:

Rita Galvan
Melanie Cano
Patricia Rigney
City Management Office

Created/Initiated - 5/12/2020
Approved - 5/13/2020
Approved - 5/13/2020
Final Approval - 5/15/2020

ORDINANCE NO. O-2020-_____

**AN ORDINANCE TEMPORARILY AMENDING ORDINANCE NO. O-2019-36;
SECTION 1, EXHIBIT "B" NO.6 CONDITIONAL USE PERMIT APPLICATION(S)
ALCOHOL BEVERAGE PERMIT AND ORDINANCE NO. O-2008-50; SECTION 62-84
APPLICATION FOR PERMIT AND FEES SUBSECTION A; TEMPORARY WAIVING
RENEWAL PERMIT FEES FOR THE DURATION OF 120 DAYS**

WHEREAS, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been confirmed in 184 countries, including the United States, and

WHEREAS, COVID-19 has been confirmed in 207 counties in Texas, including Hidalgo County; and

WHEREAS, to slow the spread of COVID-19 the White House issued guidance and orders affecting many of our local businesses; and

WHEREAS, the economy of the City of Pharr has been directly affected in response to the mitigation efforts to slow and stop the spread of COVID-19.

***NOW, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF
PHARR, TEXAS, THAT:***

SECTION 1. SUSPENSION AND MODIFICATION

- a) Ordinance O-2019-36, Section 1., Exhibit "B" 6. Conditional Use Permit Application(s) Alcohol Beverage Permit; Alcohol as an accessory use: \$350.00 application fee + **\$200.00 per year renewal fee**
- b) Ordinance O-2008-50, Section 62-84 Application for Permit and Fees subsection (a) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant and/or food handler, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit. The following fee schedule applies to permits issued under this ordinance:

- 1. **Establishments employing 10 employees or less: \$ 50.00**
- 2. **Establishments employing 11 or more employees: \$ 100.00**

The suspension of the required renewal permit fees specified in subsection (a) and (b) shall remain in effect 90 days after approval of the ordinance.

SECTION 2. SAVINGS CLAUSE:

Except as hereby amended, any other sections of Ordinance O-84-44 and Ordinance

O-2008-50 of the City of Pharr, Texas, not in conflict with this ordinance shall remain in full force and effect, unimpaired hereby.

SECTION 3. EMERGENCY CLAUSE:

The importance of the subject matter hereof creates an emergency and an imperative public necessity requiring suspension of the rule that ordinances be read on three separate days, and such rule is hereby suspended and said requirement is dispensed with by a vote of not less than a majority of all the members of the Board of Commissioners.

SECTION 4. SEVERABILITY CLAUSE

If any part of this Ordinance is found to be invalid or unconstitutional by a court having competent jurisdiction, then that invalidity or unconstitutionality shall not affect the remaining parts, and those remaining parts shall continue to be in full force and effect, and to that extent this ordinance is considered severable.

SECTION 5. EFFECTIVE DATE; PUBLICATION

This ordinance shall take effect immediately upon passage by a vote of not less than a majority of all the members of the Board of Commissioners and executed by the Mayor and City Clerk. This ordinance shall remain in effect for a period of two quarters, March 2020 through August 2020, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the Board of Commissioners of the City of Pharr.

SECTION 6. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the _____ day of _____, 2020.

CITY OF PHARR

AMBROSIO "AMOS" HERNANDEZ, MAYOR

ATTEST:

HILDA PEDRAZA, CITY CLERK



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.B.

DATE SUBMITTED: May 5, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Engineering

DIRECTOR: Omar Anzaldua

Agenda Item: Consideration and action, if any, on Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Commercial Vehicle Staging Area, CSJ: 0921-02-423. **(TABLED)**

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: This Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) in the estimated amount of \$271,500 is to cover the State's direct cost for the Preliminary Engineering and Construction review and oversight, as shown below:

Preliminary Engineering Direct State Costs (Initial Payment): \$54,000

Construction Direct State Costs: \$217,500

Total: \$271,500

Financial Consideration: Estimated Advance Funding Agreement is \$271,500.

Staff Recommendation: Staff recommends approval of the Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Commercial Vehicle Staging Area at Pharr International Bridge, CSJ: 0921-02-423.

Alternatives: NA

ROUTING:

Hilda Pedraza
Omar Anzaldua
Patricia Rigney

Created/Initiated - 5/5/2020
Approved - 5/14/2020
Approved - 5/14/2020

Karla Moya
City Management Office

New - 4/15/2020

RESOLUTION NO. R-2020-__

**ADVANCE FUNDING AGREEMENT
BORDER STATE INFRASTRUCTURE (RIDER 11B) PROJECT OFF-SYSTEM
COMMERCIAL VEHICLE STAGING AREA AT PHARR INTERNATIONAL BRIDGE
CSJ: 0921-02-423**

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

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Commercial Vehicle Staging Area at Pharr International Bridge**; and

WHEREAS, The City of Pharr wishes to enter into an Advance Funding Agreement with the State of Texas Department of Transportation for a Border State Infrastructure (Rider 11B) Project Off-System – Commercial Vehicle Staging Area at Pharr International Bridge CSJ: 0921-02-423; and

WHEREAS, The City of Pharr total estimated cost to the State will be **\$271,500** and authorizes initial payment in the amount of **\$54,000** to the Texas Department of Transportation Trust Fund.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, THAT:

The City of Pharr authorizes the Mayor to execute any and all documents necessary to effectuate said Advance Funding Agreement.

The City of Pharr authorizes the issuance of a check in the initial amount of **\$54,000** to the Texas Department of Transportation Trust Fund.

This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 20th day of April, 2020, by the Board of Commissioners of the City of Pharr, Texas.

CITY OF PHARR

Ambrosio Hernandez, Mayor

ATTEST:

Hilda Pedraza, City Clerk

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-423	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Commercial Vehicle Staging Area	AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For
Border State Infrastructure (Rider 11B) Project
Off-System**

THIS AGREEMENT (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 Pharr**, 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, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Commercial Vehicle Staging Area at Pharr International Bridge**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated _____, which is attached to and made a part of this Agreement as Attachment A, Resolution, Ordinance, or Commissioners Court Order (Attachment A). A map showing the Project location appears in Attachment B, Location Map Showing Project (Attachment B), which is attached to and made a part of this Agreement.

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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. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	N/A	Utilities	Article 8
2.	Local Government	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	Local Government	Construction Responsibilities	Article 12
5.	N/A	Right of Way and Real Property	Article 14

2. 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 effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of construction of a 20 acre Commercial Vehicle Staging Area that will add approximately 275 to 300 truck parking spaces at Pharr International Bridge.

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment C, Project Budget (Attachment C) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. 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" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

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- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment C. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment C shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government.
- F. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local

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Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.

- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- K. 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.
- L. The State will not pay interest on any funds provided by the Local Government.
- M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
- N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
- P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
- Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement 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.
- R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

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- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

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- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any

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change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.

- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. 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 existing maintenance agreements with the Local Government.

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

15. 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.

16. Notices

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All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Pharr ATTN: Mayor 118 S. Cage Blvd. Pharr, Texas 78577	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by 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 notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. 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.

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government. .

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

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21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of

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materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.

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- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. **Disadvantaged Business Enterprise (DBE) Program Requirements**

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State’s federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State’s DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.

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- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

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29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and

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- ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

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

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

THE STATE OF TEXAS

Signature

Kenneth Stewart

Typed or Printed Name

Director of Contract Services

Typed or Printed Title

Date

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Typed or Printed Title

Date

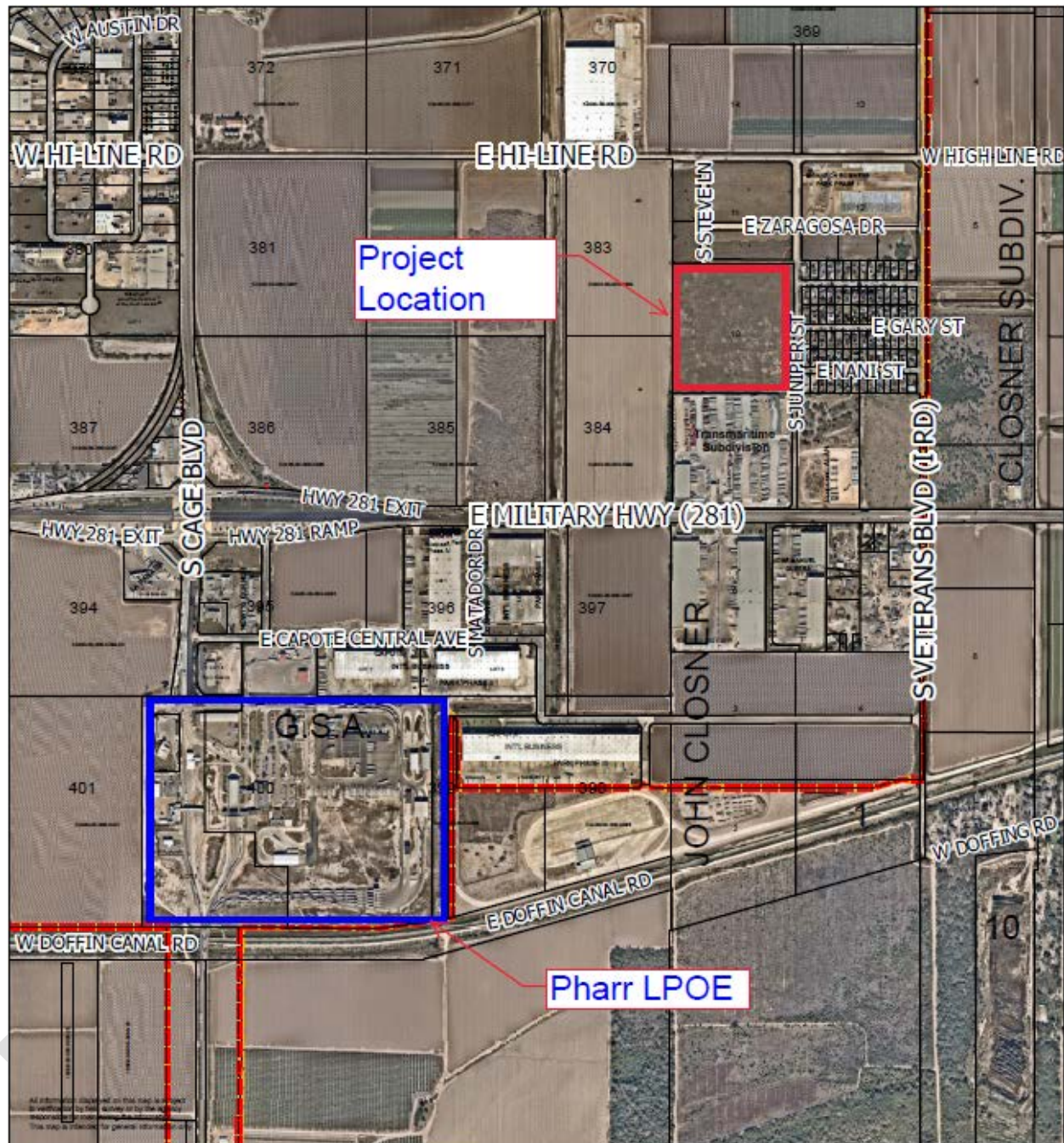
TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-42.	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Commercial Vehicle Staging Area	<i>AFA Not Used For Research & Development</i>	

ATTACHMENT A
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

FOR REVIEW ONLY

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-423	CFDA No.	20.205
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ATTACHMENT B LOCATION MAP SHOWING PROJECT



TxDOT:		Federal Highway Administration:	
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ATTACHMENT C PROJECT BUDGET

Construction Costs are allocated based on 80% Federal funding and 20% Local funding, with additional participation by the Local Government in the amount of \$3,500,000. The Local Government is responsible for 100% of project cost overruns. The Local Government is responsible for 100% of the cost of preliminary engineering (PE), Environmental documents, Construction Engineering and all Direct State Costs. The following is an estimated breakdown of the project costs and funding participation:

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering (by LG)	\$450,000	0%	\$0	0%	\$0	100%	\$450,000
Environmental (by LG)	\$20,000	0%	\$0	0%	\$0	100%	\$20,000
Construction (by LG) Cat. 11B	\$4,000,000	80%	\$3,200,000	0%	\$0	20%	\$800,000
Construction (by LG)	\$3,500,000	0%	\$0	0%	\$0	100%	\$3,500,000
Construction Engineering (by LG)	\$375,000	0%	\$0	0%	\$0	100%	\$375,000
Subtotal	\$8,345,000		\$3,200,000		\$0		\$5,145,000
Environmental Direct State Costs	\$8,100	0%	\$0	0%	\$0	100%	\$8,100
Right of Way Direct State Costs	\$2,700	0%	\$0	0%	\$0	100%	\$2,700
Engineering Direct State Costs	\$40,500	0%	\$0	0%	\$0	100%	\$40,500
Utility Direct State Costs	\$2,700	0%	\$0	0%	\$0	100%	\$2,700
Construction Direct State Costs	\$217,500	0%	\$0	0%	\$0	100%	\$217,500
Indirect State Costs	\$444,789	0%	\$0	100%	\$444,789	0%	\$0
TOTAL	\$9,061,289		\$3,200,000		\$444,789		\$5,416,500

Initial payment by the Local Government to the State: \$54,000.00

Payment by the Local Government to the State before construction: \$217,500.00

Estimated total payment by the Local Government to the State \$271,500.00. This is an estimate. The final amount of Local Government participation will be based on actual costs.



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.C.

DATE SUBMITTED: May 5, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Engineering

DIRECTOR: Omar Anzaldua

Agenda Item: Consideration and action, if any, on Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Dock Expansion Phase I (Dry Units) at Pharr International Bridge, CSJ: 0921-02-424. **(TABLED)**

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: This Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) in the estimated amount of \$212,000 is to cover the State's direct cost for the Preliminary Engineering and Construction review and oversight, as shown below:

Preliminary Engineering Direct State Costs (Initial Payment): \$52,500

Construction Direct State Costs: \$159,500

Total: \$212,000

Financial Consideration: Estimated Advance Funding Agreement is \$212,000.

Staff Recommendation: Staff recommends approval of the Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Dock Expansion Phase I at Pharr International Bridge, CSJ: 0921-02-424.

Alternatives: NA

ROUTING:

Hilda Pedraza
Omar Anzaldua

Created/Initiated - 5/5/2020
Approved - 5/14/2020

Patricia Rigney
Karla Moya
City Management Office

Approved - 5/14/2020
New - 4/17/2020

RESOLUTION NO. R-2020-__

**ADVANCE FUNDING AGREEMENT
BORDER STATE INFRASTRUCTURE (RIDER 11B) PROJECT OFF-SYSTEM
DOCK EXPANSION PHASE I AT PHARR INTERNATIONAL BRIDGE
CSJ: 0921-02-424**

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

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Dock Expansion Phase I at Pharr International Bridge**; and

WHEREAS, The City of Pharr wishes to enter into an Advance Funding Agreement with the State of Texas Department of Transportation for a Border State Infrastructure (Rider 11B) Project Off-System – Dock Expansion Phase I at Pharr International Bridge CSJ: 0921-02-424; and

WHEREAS, The City of Pharr total estimated cost to the State will be **\$212,000** and authorizes initial payment in the amount of **\$52,500** to the Texas Department of Transportation Trust Fund.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, THAT:

The City of Pharr authorizes the Mayor to execute any and all documents necessary to effectuate said Advance Funding Agreement.

The City of Pharr authorizes the issuance of a check in the initial amount of **\$52,500** to the Texas Department of Transportation Trust Fund.

This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 20th day of April, 2020, by the Board of Commissioners of the City of Pharr, Texas.

CITY OF PHARR

Ambrosio Hernandez, Mayor

ATTEST:

Hilda Pedraza, City Clerk

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-424	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase I	AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For
Border State Infrastructure (Rider 11B) Project
Off-System**

THIS AGREEMENT (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 Pharr**, 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, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Dock Expansion Phase I at Pharr International Bridge**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated _____, which is attached to and made a part of this Agreement as Attachment A, Resolution, Ordinance, or Commissioners Court Order (Attachment A). A map showing the Project location appears in Attachment B, Location Map Showing Project (Attachment B), which is attached to and made a part of this Agreement.

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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. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	N/A	Utilities	Article 8
2.	Local Government	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	Local Government	Construction Responsibilities	Article 12
5.	N/A	Right of Way and Real Property	Article 14

2. 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 effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of The Dock Expansion Phase I includes inspection facilities for inbound agriculture and non-agriculture commercial vehicles entering the Land Port Of Entry of Pharr, Texas, from Mexico at Pharr International Bridge in Hidalgo County. The improvements include the expansion of dock facilities and amenities for inspection of import goods and training. (11 Dry Docks)

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment C, Project Budget (Attachment C) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. 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" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the

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- Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.
- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment C. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
 - C. Attachment C shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
 - D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
 - E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government.
 - F. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
 - G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
 - H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
 - I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of

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preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.

- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- K. 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.
- L. The State will not pay interest on any funds provided by the Local Government.
- M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
- N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
- P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
- Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement 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.
- R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

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5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance

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of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

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- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. 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 existing maintenance agreements with the Local Government.

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

15. 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.

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16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Pharr ATTN: Mayor 118 S. Cage Blvd. Pharr, Texas 78577	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by 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 notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. 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.

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government. .

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

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21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of

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materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.

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- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. **Disadvantaged Business Enterprise (DBE) Program Requirements**

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State’s federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State’s DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.

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- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

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29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and

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- ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

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

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

THE STATE OF TEXAS

THE LOCAL GOVERNMENT

Signature

Signature

Kenneth Stewart

Typed or Printed Name

Typed or Printed Name

Director of Contract Services

Typed or Printed Title

Typed or Printed Title

Date

Date

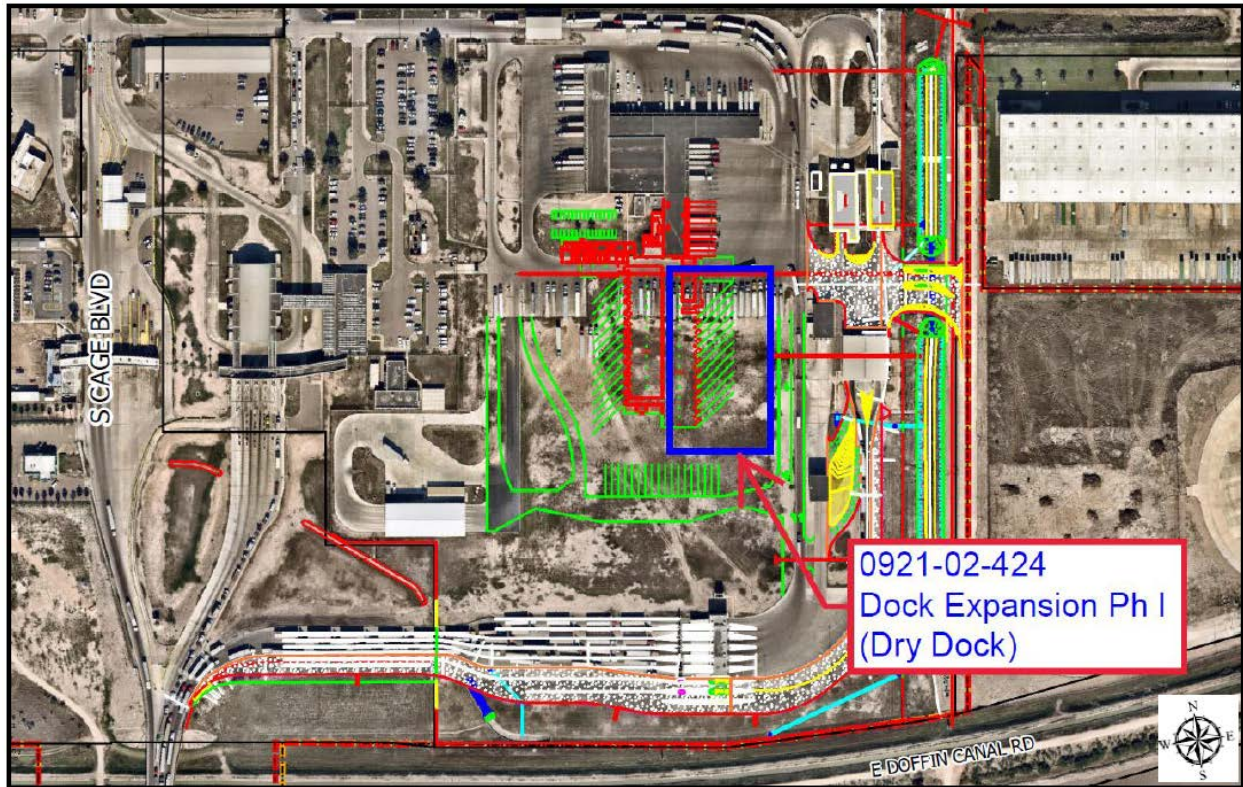
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ATTACHMENT A
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

FOR REVIEW ONLY

TxDOT:		Federal Highway Administration:	
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ATTACHMENT B
LOCATION MAP SHOWING PROJECT



FOR REVIEW

TxDOT:		Federal Highway Administration:	
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ATTACHMENT C PROJECT BUDGET

Construction Costs are allocated based on 80% Federal funding and 20% Local funding, with additional participation by the Local Government in the amount of \$2,500,000. The Local Government is responsible for 100% of project cost overruns. The Local Government is responsible for 100% of the cost of preliminary engineering (PE), Environmental documents, and all Direct State Costs. The following is an estimated breakdown of the project costs and funding participation.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering (by LG)	\$330,000	0%	\$0	0%	\$0	100%	\$330,000
Environmental (by LG)	\$10,000	0%	\$0	0%	\$0	100%	\$10,000
Construction (by LG) Cat. 11B	\$3,000,000	80%	\$2,400,000	0%	\$0	20%	\$600,000
Construction (by LG)	\$2,500,000	0%	\$0	0%	\$0	100%	\$2,500,000
Subtotal	\$5,840,000		\$2,400,000		\$0		\$3,440,000
Environmental Direct State Costs	\$5,250	0%	\$0	0%	\$0	100%	\$5,250
Right of Way Direct State Costs	\$2,625	0%	\$0	0%	\$0	100%	\$2,625
Engineering Direct State Costs	\$42,000	0%	\$0	0%	\$0	100%	\$42,000
Utility Direct State Costs	\$2,625	0%	\$0	0%	\$0	100%	\$2,625
Construction Direct State Costs	\$159,500	0%	\$0	0%	\$0	100%	\$159,500
Indirect State Costs	\$311,272	0%	\$0	100%	\$311,272	0%	\$0
TOTAL	\$6,363,272		\$2,400,000		\$311,272		\$3,652,000

Initial payment by the Local Government to the State: \$52,500.00

Payment by the Local Government to the State before construction: \$159,500.00

Estimated total payment by the Local Government to the State \$212,000.00.

This is an estimate. The final amount of Local Government participation will be based on actual costs.



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.D.

DATE SUBMITTED: May 5, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Engineering

DIRECTOR: Omar Anzaldua

Agenda Item: Consideration and action, if any, on Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Dock Expansion Phase II (Cold Units) at Pharr International Bridge, CSJ: 0921-02-425. **(TABLED)**

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: This Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) in the estimated amount of \$368,000 is to cover the State's direct cost for the Preliminary Engineering and Construction review and oversight, as shown below:

Preliminary Engineering Direct State Costs (Initial Payment): \$138,000

Construction Direct State Costs: \$230,000

Total: \$368,000

Financial Consideration: Estimated Advance Funding Agreement is \$368,000.

Staff Recommendation: Staff recommends approval of the Resolution executing an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Dock Expansion Phase II (Cold Units) at Pharr International Bridge, CSJ: 0921-02-425.

Alternatives: NA

ROUTING:

Hilda Pedraza
Omar Anzaldua

Created/Initiated - 5/5/2020
Approved - 5/14/2020

Patricia Rigney
Karla Moya
City Management Office

Approved - 5/14/2020
New - 4/15/2020

RESOLUTION NO. R-2020-__

**ADVANCE FUNDING AGREEMENT
BORDER STATE INFRASTRUCTURE (RIDER 11B) PROJECT OFF-SYSTEM
DOCK EXPANSION PHASE II (COLD UNITS) AT PHARR INTERNATIONAL BRIDGE
CSJ: 0921-02-425**

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

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Dock Expansion Phase II (Cold Units) at Pharr International Bridge**; and

WHEREAS, The City of Pharr wishes to enter into an Advance Funding Agreement with the State of Texas Department of Transportation for a Border State Infrastructure (Rider 11B) Project Off-System – Dock Expansion Phase II (Cold Units) at Pharr International Bridge CSJ: 0921-02-425; and

WHEREAS, The City of Pharr total estimated cost to the State will be **\$368,000** and authorizes initial payment in the amount of **\$138,000** to the Texas Department of Transportation Trust Fund.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, THAT:

The City of Pharr authorizes the Mayor to execute any and all documents necessary to effectuate said Advance Funding Agreement.

The City of Pharr authorizes the issuance of a check in the initial amount of **\$138,000** to the Texas Department of Transportation Trust Fund.

This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 20th day of April, 2020, by the Board of Commissioners of the City of Pharr, Texas.

CITY OF PHARR

Ambrosio Hernandez, Mayor

ATTEST:

Hilda Pedraza, City Clerk

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
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Project Name	Dock Expansion Phase II (Cold Units)	AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT
For
Border State Infrastructure (Rider 11B) Project
Off-System

THIS AGREEMENT (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 Pharr**, 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, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Dock Expansion Phase II (Cold Units) at Pharr International Bridge**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated _____, which is attached to and made a part of this Agreement as Attachment A, Resolution, Ordinance, or Commissioners Court Order (Attachment A). A map showing the Project location appears in Attachment B, Location Map Showing Project (Attachment B), which is attached to and made a part of this Agreement.

TxDOT:		Federal Highway Administration:	
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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. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	N/A	Utilities	Article 8
2.	Local Government	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	Local Government	Construction Responsibilities	Article 12
5.	N/A	Right of Way and Real Property	Article 14

2. 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 effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of The Dock Expansion Phase II (Cold Units) adds inspection facilities for inbound agriculture and non-agriculture commercial vehicles entering the Land Port Of Entry of Pharr, Texas, from Mexico at Pharr International Bridge in Hidalgo County. The improvements include the expansion of dock facilities and amenities for inspection of import goods and training. (13 Cold Units)

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment C, Project Budget (Attachment C) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. 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" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform

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- oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.
- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment C. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment C shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government.
- F. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.

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- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.
- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- K. 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.
- L. The State will not pay interest on any funds provided by the Local Government.
- M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
- N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
- P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
- Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement 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.

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

5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the

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State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional services

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contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. 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 existing maintenance agreements with the Local Government.

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

15. Insurance

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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.

16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Pharr ATTN: Mayor 118 S. Cage Blvd. Pharr, Texas 78577	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by 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 notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. 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.

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be

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transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government. .

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA),

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as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

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26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

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27. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension."

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By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase II (Cold Units)	AFA Not Used For Research & Development	

award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.

B. The Local Government agrees that it shall:

1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

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

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase II (Cold Units)	AFA Not Used For Research & Development	

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

THE STATE OF TEXAS

THE LOCAL GOVERNMENT

Signature

Kenneth Stewart

Typed or Printed Name

Director of Contract Services

Typed or Printed Title

Date

Signature

Typed or Printed Name

Typed or Printed Title

Date

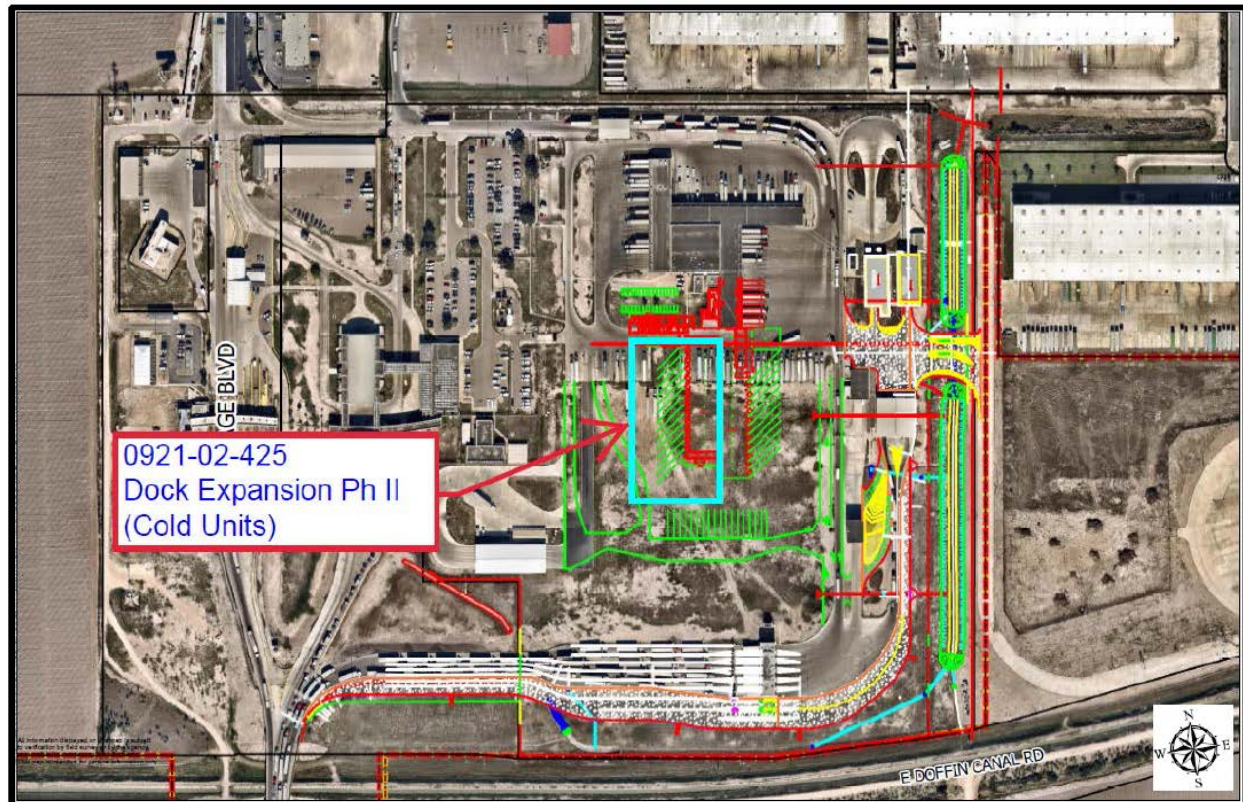
TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase II (Cold Units)	<i>AFA Not Used For Research & Development</i>	

ATTACHMENT A
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

FOR REVIEW ONLY

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase II (Cold Units)	AFA Not Used For Research & Development	

ATTACHMENT B
LOCATION MAP SHOWING PROJECT



FOR REF

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase II (Cold Units)	AFA Not Used For Research & Development	

ATTACHMENT C PROJECT BUDGET

Construction Costs are allocated based on 80% Federal funding and 20% Local funding, with additional participation by the Local Government in the amount of \$6,500,000. The Local Government is responsible for 100% of project cost overruns. The Local Government is responsible for 100% of preliminary engineering (PE), Environmental documents, and all Direct State Costs. The following is an estimated breakdown of the project costs and funding participation.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Engineering (by LG)	\$690,000	0%	\$0	0%	\$0	100%	\$690,000
Environmental (by LG)	\$10,000	0%	\$0	0%	\$0	100%	\$10,000
Construction (by LG) Cat. 11B	\$5,000,000	80%	\$4,000,000	0%	\$0	20%	\$1,000,000
Construction (by LG)	\$6,500,000	0%	\$0	0%	\$0	100%	\$6,500,000
Subtotal	\$12,200,000		\$4,000,000		\$0		\$8,200,000
Environmental Direct State Costs	\$6,900	0%	\$0	0%	\$0	100%	\$6,900
Right of Way Direct State Costs	\$6,900	0%	\$0	0%	\$0	100%	\$6,900
Engineering Direct State Costs	\$117,300	0%	\$0	0%	\$0	100%	\$117,300
Utility Direct State Costs	\$6,900	0%	\$0	0%	\$0	100%	\$6,900
Construction Direct State Costs	\$230,000	0%	\$0	0%	\$0	100%	\$230,000
Indirect State Costs	\$650,260	100%	\$650,260	0%	\$0	0%	\$0
TOTAL	\$13,218,260		\$4,650,260		\$0		\$8,568,000

Initial payment by the Local Government to the State: \$138,000.00

Payment by the Local Government to the State before construction: \$230,000.00

Estimated total payment by the Local Government to the State \$368,000.00.

This is an estimate. The final amount of Local Government participation will be based on actual costs.



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.E.

DATE SUBMITTED: May 8, 2020

MEETING DATE: May 18, 2020

FROM: Sonia Cantu, CDBG Secretary

DEPARTMENT: GMCD

DIRECTOR: Raul Garza

Agenda Item: Consideration and action, if any, on Resolution appointing/re-appointing one member to the Community Development Council.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The CDBG Community Development Council is needing to re-appoint one board member. Mr. Rene Cantu's term will expire June 5, 2020. His re-appointment will be for two (2) years expiring on June 5, 2022. Mr. Cantu represents census tract #215.

CT#215 is comprised of Sugar Rd (West) to Veterans (East) and Bell St (North) to Business 83 (South).

Financial Consideration:

Staff Recommendation: Staff recommends approval.

Alternatives:

ROUTING:

Sonia Cantu

Created/Initiated - 5/8/2020

Raul Garza

Approved - 5/11/2020

Anali Alanis

Approved - 5/15/2020

Patricia Rigney

Approved - 5/15/2020

City Management Office

New -

[illegible]

RESOLUTION NO. R-2020-__

WHEREAS, a City Community Development Council was created to serve in an advisory capacity to the Board of Commissioners, and its purpose is to review and coordinate data, vote on agenda items and to assist in the development of a system of priorities in the area of Community Development for the City of Pharr; and

WHEREAS, the terms of Rene Cantu (CT215) will expire on June 5, 2020; and

WHEREAS, re-appointment of one (1) member (CT215) is needed at this time.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS THAT:

The following residents of the City of Pharr are hereby appointed members of the Community Development Council:

	NAME	CENSUS TRACT	LENGTH OF TERM
1.	_____	215	2-Year term (expiring 06/05/22)

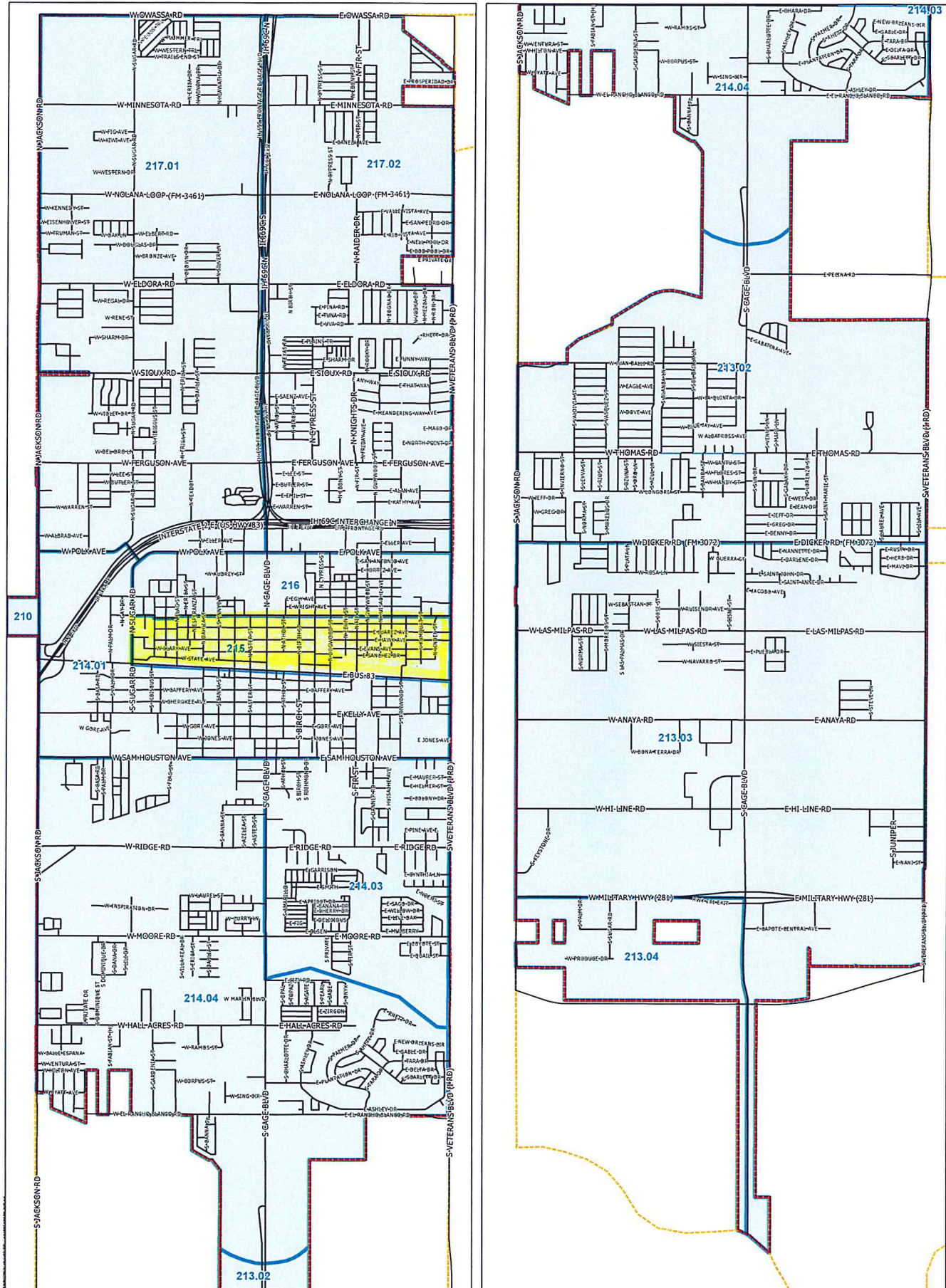
PASSED AND APPROVED this 18th day of May 2020, by the Board of Commissioners of the City of Pharr, Texas.

CITY OF PHARR

AMBROSIO HERNANDEZ, MAYOR

ATTEST:

HILDA PEDRAZA, CITY CLERK



COMMUNITY DEVELOPMENT COUNCIL

APPOINTMENT SCHEDULE

	NAME	CENSUS TRACT	TERM	EXPIRATION DATE
1	Jose G. Rodriguez	213	3 Yrs	03-19-2022
2	Marco Gonzalez	216	3 Yr	03-19-2022
3	Danny Smith	216	3 Yrs	03-19-2022
4	Olga Cardoza	214	3 Yrs	03-19-2022
5	Rene Cantu, Chairman	215	2 Yrs	06-05-2020
6	Belia Garcia	217	2 Yrs	03-19-2021
7	Romeo Robles Member at Large	At large	2 Yrs	03-19-2021
8	Norma Treviño	215	1 Yr	03-19-2021
9	Joe Hinojosa	217	1 Yr	03-19-2021
10	Trinidad Z. Suchil	213	1 Yr	03-19-2021
11	Lucio Gaitan	214	2 Yr	03-19-2022



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.F.

DATE SUBMITTED: May 12, 2020

MEETING DATE: May 18, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR:

Agenda Item: Consideration and action, if any, on Resolution entering into an agreement with the Texas Department of Transportation for the closure of U.S. 281 (Cage Blvd.) from Old Business 83 to Kelly Ave. for the installation of various decorative light poles in front of City Hall beginning the week of May 25, 2020.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Contractor will begin installing the decorative light poles in front of City Hall beginning the week of May 25th. Streets closure will be sequenced as to where only one direction of traffic is closed at a time.

Financial Consideration:

Staff Recommendation: Staff recommends approval.

Alternatives:

ROUTING:

Omar Anzaldua

Created/Initiated - 5/12/2020

Omar Anzaldua

Approved - 5/12/2020

Patricia Rigney

Approved - 5/15/2020

Karla Moya

Approved - 5/15/2020

City Management Office

Final Approval - 5/15/2020

RESOLUTION R-2020-__

**A RESOLUTION OF THE CITY OF PHARR TEXAS, AUTHORIZING THE CITY TO
ENTER INTO AN AGREEMENT WITH THE TEXAS DEPARTMENT OF PUBLIC
TRANSPORTATION FOR PUBLIC EVENT IN THE CITY LIMITS OF PHARR**

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS
OF THE CITY OF PHARR, TEXAS:

That the City of Pharr wishes to enter into an agreement with the State of Texas, acting
by and through the Texas Department of Transportation for temporary closure of a
street for the installation of decorative light poles.

That the closure of U.S. 281 (Cage Boulevard) from Business 83 to Kelly for the
installation of decorative light poles along Cage Blvd. Closures will be done in two
phases. Phase I-Closure of Northbound traffic beginning Monday May 25th until Sunday
May 31st at 12:01 a.m. Phase II- Closure of Southbound Traffic from Monday, June 1st,
2020 at 12:01 a.m. until Wednesday, June 3, 2020 at 8:00 p.m.

That all rules and procedures of 43 Tex., Adm. Code, Section 22.12 have been
established for the temporary closure of a segment of the State highway system and
this agreement has been developed in accordance with the rules and procedures.

This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 18th day of May, 2020, by the Board of
Commissioners of the City of Pharr, Texas.

CITY OF PHARR

AMBROSIO HERNANDEZ, MAYOR

ATTEST:

HILDA PEDRAZA, CITY CLERK



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.A.

DATE SUBMITTED: May 12, 2020

MEETING DATE: May 18, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR:

Agenda Item: Consideration and action authorizing City Manager to advertise to Competitive Sealed Proposals (CSP) for the City of Pharr International Bridge Facility Expansion and Renovations Phase II. (Project No. 1920-70-510-C009-775)

Classification: Consent

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Expansion and Renovations of the International Bridge Facility Phase II

Financial Consideration: Estimated Construction Cost \$500K to \$600K

Staff Recommendation: Staff recommends approval

Alternatives:

ROUTING:

Omar Anzaldua

Created/Initiated - 5/12/2020

Omar Anzaldua

Approved - 5/12/2020

Ignacio Amezcua

Approved - 5/12/2020

Patricia Rigney

Approved - 5/12/2020

Karla Moya

Denied - 5/1/2020

City Management Office



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.B.

DATE SUBMITTED: May 12, 2020

MEETING DATE: May 18, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR:

Agenda Item: Consideration and action, if any, authorizing the City Manager to solicit a scope and fee proposal from Halff Associates Inc., and negotiate and enter into a contract for the Master Planning and design of Operational Improvements at the Pharr International Bridge. (Project No.1920-01-528-8013-001) (Rotation List)

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The purpose of the master planning and design of operational improvements is to increase the traffic flow throughput and improve operational efficiencies by evaluating the existing footprint of the port and making improvements as needed. Including the following:

- A new a dedicated lane for Northbound C-TPAT Truck crossings, which represents 30-35% of our daily northbound truck crossings.
- Allow Free And Secure Trade (FAST) access by circumventing the import lot.
- Improve continuity of operations/business resumption during contingencies due to system failures and/or other issues inside the port.
- Ensure faster crossing times during peak producer season (October – April).
- Increase capacity inside the import lot by 30-35%.
- Increase truck throughput, reduce border wait times and accommodate long-term development and growth.
- Promote security, control and safety.

- Will serve as a key selling point to attract new customers

Financial Consideration: To be negotiated. Estimated fee not to exceed \$175,000

Staff Recommendation: Staff recommends approval.

Alternatives:

ROUTING:

Omar Anzaldua	Created/Initiated - 5/12/2020
Omar Anzaldua	Approved - 5/12/2020
Ignacio Amezcua	Approved - 5/12/2020
Patricia Rigney	Approved - 5/12/2020
Karla Moya	Approved - 5/14/2020
City Management Office	Final Approval - 5/15/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.C.

DATE SUBMITTED: May 14, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Presentation and discussion on Pharr COVID-19 Disaster Recovery Center.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Presentation will be live at the meeting

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Hilda Pedraza
City Management Office

Created/Initiated - 5/14/2020
Final Approval - 5/15/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.D.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Edward Wylie, Assistant City Manager

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Consideration and action, if any, authorizing City Manager to negotiate and enter into a contract with GDJ Engineering, from the list of qualified firms, to provide an assessment and project development of a priority plan for the City's transportation projects.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Staff is requesting to conduct an assessment of all the street intersections, traffic counts, flow patterns and future transportation needs for the City.

Financial Consideration: TBD

Staff Recommendation:

Alternatives:

ROUTING:

Edward Wylie
City Management Office

Created/Initiated - 5/15/2020
Final Approval - 5/15/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.A.

DATE SUBMITTED: May 11, 2020

MEETING DATE: May 18, 2020

FROM: Moises Beas

DEPARTMENT: Engineering

DIRECTOR: Omar Anzaldua

Agenda Item: Consideration and action, if any, authorizing City Manager to negotiate and enter into a contract with Millennium Engineers Group, Inc. for Construction Material Testing Services for the Pharr International Bridge FY15 DAP Northbound Lane Project (CSJ: 0921-02-385) and 2nd BSIF Exit Project (CSJ: 0921-02-383).

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The City of Pharr is requesting the authorization of the City Commission on approving the City Manager to negotiate and enter into a contract agreement for Construction Material Testing Services with Millennium Engineering Group, Inc., for the Pharr International Bridge FY15 DAP Northbound Lane Project (CSJ: 0921-02-385) & 2nd BSIF Exit Project (CSJ: 0921-02-383).

Financial Consideration: Estimated Fee is \$50,142.63

Staff Recommendation: Staff recommends approval and authorization to negotiate and enter into a contract with Millennium Engineers Group, Inc. for Construction Material Testing Services for the Pharr International Bridge FY15 DAP Northbound Lane Project (CSJ: 0921-02-385) & 2nd BSIF Exit Project (CSJ: 0921-02-383).

Alternatives:

ROUTING:

Moises Beas
Omar Anzaldua
Patricia Rigney
Karla Moya
City Management Office

Created/Initiated - 5/11/2020
Approved - 5/14/2020
Approved - 5/14/2020
Approved - 5/14/2020
Final Approval - 5/15/2020



April 30, 2020

Mr. Moises Beas, E.I.T.
118 S. Cage Blvd., 4th Floor
Pharr, TX 78577
(956) 638-4591 (M)
(956) 402-4000 Ext. 1407
moises.beas@pharr-tx.gov

Subject: Construction Materials Testing Service
City of Pharr Northbound Lanes Expansion Project (Base Bid 1)
and 2nd BSIF Exit (Base Bid 2) Pharr, Hidalgo County, TX
MEG Proposal No. 01-20-213MR1

Dear Mr. Beas,

Millennium Engineers Group, Inc. (MEG) is pleased to submit this proposal for the subject project to offer our services for Construction Materials Testing as outlined below. This proposal, our proposed scope of services, and the estimated item quantities are based upon the project information provided to us by the CLIENT and/or authorized representative.

The estimated cost for services on this project is **\$50,142.63**

The estimate provided is preliminary in nature and is based upon our understanding of the project information provided to us. The cost is estimated without an understanding of the general contractor's construction schedule, construction sequence, scheduling, and changes in weather. Since it is difficult to provide an overall cost estimate for testing as indicated, we have provided a schedule of fees based upon the hourly and unit prices for our services. If there is any change in the project requirements provided to us from those mentioned below, please notify us of the changes and the estimate can be revised accordingly.

We appreciate the opportunity of submitting this proposal and look forward to working with you on the construction phase of this project. If there are any questions regarding the proposed scope of work please contact us at (956) 702-8500. Upon your authorization we will begin immediately on the services that you have requested. Please complete the attached Project Information Sheet in order for us to timely setup the project, prepare testing reports, and process monthly invoices.

Sincerely,
MILLENNIUM ENGINEERS GROUP, INC.
TBPE Firm No. F-3913

Andres Palma, P.E.
Materials Testing Manager

PROJECT INFORMATION

We understand that the proposed plans are to construct the City of Pharr Land Port of Entry-Northbound Lanes (Base Bid 1) and 2nd BSIF Exit (Base Bid 2) project located in Pharr, Hidalgo County, TX. **Our understanding is that our services will be needed for subgrade, select fill, flexible base, and concrete testing and reinforcing steel and welding inspections.** Our involvement in the project is anticipated to include providing field and/or laboratory construction materials observation and testing during the duration of the project.

SCOPE OF SERVICES

MEG will provide materials observation and testing services that are in general accordance with the project plans and specifications. The quantity of services required for construction materials testing during the construction phase of the project will be affected by the general contractors scheduling, sequencing, progress, and performance. Therefore, our fee for construction material testing services will be based upon the provided unit and hourly rates. MEG's anticipated scope of services is as follows:

- ☒ Laboratory evaluation of Soils
- ☒ Field density and moisture evaluation of Soils
- ☒ Field observations and testing of Concrete
- ☒ Field observations of Reinforcing Steel
- ☒ Field observation of Steel Construction including Bolting, Welding, and Metal Decking
- ☐ Field observation and laboratory evaluation of Asphaltic Concrete Pavement used during Pavement Construction

Experienced inspectors and laboratory personnel will be provided for construction material testing services. All services will be performed under the direction of a Registered Professional Engineer in the State of Texas. Field testing and laboratory reports will be processed on an on-call basis by personnel that have been authorized to schedule testing and observation by our CLIENT. All service reports will be transmitted electronically to the project distribution list as directed by our CLIENT on the Project Information Sheet. An original copy of the report will be sent on a monthly basis along with the project invoice.

PROJECT ESTIMATE

The fees presented in this proposal and outlined in the Unit Rate Sheet section are based on prompt payment for services. Late fees will be charged if payment is not received in accordance with the terms as outlined in the Provisions section of this proposal. The estimated fee for providing the above services on the project is as follows:

☒ **SOILS**

Task	Qty.	Unit Rate	Estimated Cost
Atterberg Limits (each)	8	66.50	\$532.00
Gradation (each)	2	85.00	\$170.00
Wet Ball Mill (each)	2	227.50	\$455.00
Percent Passing No. 200 Sieve (each)	8	90.00	\$720.00
Standard Proctor (each)	8	216.25	\$1,730.00
Nuclear density tests (each)	150	27.50	\$4,125.00
Field testing & observation (hourly)	119.5	57.50	\$6,871.25
Sub-Total (Soils)			\$14,603.25

☒ **CONCRETE (45 sets @ pavement and curb)**

Task	Qty.	Unit Rate	Estimated Cost
Slump (each)	45	35.00	\$1,575.00
Air Content (each)	45	16.00	\$720.00
Compressive Strength Tests (each)	180	17.00	\$3,060.00
Concrete Inspection & Testing Technician (hourly)	280	47.00	\$13,160.00
Sub-Total (Concrete)			\$18,515.00

☒ **CONCRETE (5 pours at foundation, sidewalk, and rip-rap area)**

Task	Qty.	Unit Rate	Estimated Cost
Slump (each)	5	35.00	\$175.00
Air Content (each)	5	16.00	\$80.00
Compressive Strength Tests (each)	28	17.00	\$476.00
Concrete Inspection & Testing Technician (hourly)	30	47.00	\$1,410.00
Sub-Total (Concrete)			\$2,141.00

☒ **REINFORCING STEEL (rebar inspection)**

Task	Qty.	Unit Rate	Estimated Cost
Reinforcing Steel Inspection (per hour)	12	64.50	\$774.00
Sub-Total (Reinforcing Steel)			\$774.00

☒ **CERTIFIED WELDING (3 trips for metal decking/welding inspections)**

Task	Qty.	Unit Rate	Estimated Cost
Certified Welding Inspector	18	90.00	\$1,620.00
Vehicle trip (each)	3	30.00	\$90.00
Sub-Total (Certified Welding)			\$1,710.00

☒ **PROJECT MANAGEMENT AND ADMINISTRATION**

Task	Qty.	Unit Rate	Estimated Cost
Project Management (hourly)	29.25	97.50	\$2,851.88
Project Engineer (hourly)	29.25	130.00	\$3,802.50
Admin/Clerical	114.9	50.00	\$5,745.00
Sub-Total (Mgmt. & Admin.)			\$12,399.38

Total Estimated Cost **\$50,142.63**

The following assumptions were used in preparing the proposal:

- MEG's proposal is dependent on the duration of construction days and additional compensation may be required if the construction sequence is slower or faster than typical construction.
- MEG's proposal is dependent on the construction sequence that is used by the General Contractor. Estimated quantities herein are based on the most efficient scheduling the General Contractor can use to combine our services when applicable. Standby time, weather, and cancellations have not been factored into the proposal.
- The Contractors on the site will work a single shift, on a 5 days per week schedule.
- Construction Material Testing Services will be scheduled with 24 hours notice.
- Services provided outside of regular business hours as outlined in the Provisions section of this proposal, or services provided on Saturday, Sunday, or Holidays will be invoiced at 1.5 times the applicable unit rate.
- Minimum three (3) hour charge for engineering technician per trip. Minimum three (3) density tests per trip.
- Upon request for services by owner, representative of owner, and/or construction team, MEG will assume that our proposal is authorized and will proceed with services, to not delay project. If these terms are not agreeable, please provide MEG written documentation prior to the request for services.
- When invoices need to be delivered to a third party for review, the client shall notify MEG of this request, prior to the request for services. If this is not disclosed before the request for services, MEG shall charge administrative time to prepare, send, and deliver to the third party.
- Unless otherwise notified, MEG assumes that the owner will be responsible for all of the project's invoices. If retests and/or cancellations are to be billed to another party, the owner shall notify MEG before the request for services. An administrative fee will incur with the separation of invoices.
- Invoices are due and payable on receipt. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law.

SCHEDULE

We request that our office be contacted at 956/702-8501 at least 24 hours prior to the time our services are needed to allow for scheduling. Calls for scheduling services will need to be made by 5 PM of the previous day when service requests are needed. Cancellation of service requests will need to be made at least 2 hours before the scheduled service request time. Cancellation of services that are scheduled to be performed before 8 AM (early morning) will need to be made prior to 5 PM of the previous day. Our services will be performed as directed by the CLIENT, at the rates presented herein.

The contractor is responsible for performing the work in accordance with the plans and specifications. Our testing & observations of the work does not relieve the contractor of their responsibility to perform the work properly and in accordance with industry standards. Prior to the start of construction and our services, we do request one (1) set of approved project plans and specifications with addendums when applicable. We also request the contact information of the general contractor so cancellations, re-testing, or additional testing when required because of the contractor can be billed to the contractor. The project information form and invoicing instructions form will need to be submitted to our office within 5 days of the authorization date. Failure to do so will require MEG to furnish additional administrative support for this project and will be subject to additional administrative charges as required. In addition, an on-site pre-construction meeting with all involved parties is highly recommended to our CLIENT to clearly specify the expectations, scope, and responsibilities of all involved parties.

GENERAL COMMENTS

This proposal may be executed by signing the Authorization for Professional Services and returning a copy to MEG. Project initiation and set up may be expedited by emailing or faxing a copy of the signed Authorization for Professional Services to (956) 702-4180. The terms, conditions, and limitations stated in the Provisions section and section of this proposal incorporated therein, shall constitute the exclusive terms and conditions and services to be performed for this project. This proposal is valid only if authorized within 60 days from the proposal date. Please contact our office if you have any questions or comments about the proposal that has been prepared for your project.

PLEASE SIGN THE FOLLOWING SHEET AND RETURN FOR AUTHORIZATION OF SERVICES AND PROJECT SETUP.

AUTHORIZATION FOR PROFESSIONAL SERVICES

Millennium Engineers Group, Inc. and CLIENT hereby agree to the terms and conditions of this proposal and have caused this agreement to be executed by their duly authorized officers and made effective as of the day and year of this agreement.

Client: **City of Pharr**

Consultant: **Millennium Engineers Group, Inc.**

Signature: _____

Signature: _____

Name/Title: _____

Name/Title: Andres Palma, P.E. / Manager

Date: _____

Date: April 30, 2020

Please address invoices to:	Please address deliverables and notices to: Same as invoices: Yes / No, address to:
ATTN:	ATTN:

All service reports will be transmitted electronically to the project distribution list as directed by our CLIENT on the attached **Project Information Sheet**. The Authorization for Professional Services does not relieve the signatory party of their responsibility to pay invoices as stated due upon receipt. The authorization of this form does not relieve the signatory party of their responsibility to pay MEG and proceed with their payment to MEG with no obligations, commitments, payment and/or review by another responsible party. It is the responsibility of the CLIENT to discuss these terms with MEG prior to the execution of this proposal. This proposal may be executed by signing the **Authorization for Professional Services** and returning a copy to MEG. Project initiation and set up may be expedited by emailing a copy to (meg@megengineers.com) or faxing a copy of the signed Authorization for Professional Services to (956) 702-4180.

Please mail original copies to:
Millennium Engineers Group, Inc., PO Box 4569, Edinburg, Texas 78540-4569.

PLEASE SIGN AND RETURN THIS SHEET FOR AUTHORIZATION OF SERVICES AND PROJECT SETUP.

MILLENNIUM ENGINEERS GROUP, INC., PROFESSIONAL SERVICES AGREEMENT PROVISIONS

1. **AUTHORIZATION TO PROCEED**
Signing this form shall be construed as authorization by CLIENT for MILLENNIUM ENGINEERS GROUP, INC. (MEG) to proceed with the work, unless otherwise provided for in the authorization.
2. **TECHNICIAN SERVICES**
MEG will charge overtime at the rate of 1.5 applicable for technician services performed before 7 AM and after 6 PM on Monday through Friday, after 8 continuous hours on the Client's project and on Saturday, Sunday and holidays. Laboratory testing performed after normal work hours of 7 AM to 6 PM on Monday through Friday, Saturday, Sunday and Holidays will be billed the test rate plus applicable overtime hourly charges. Hours billed will be from our office at 5804 N. Gumwood, Pharr, Texas, portal to portal. Fractions of hours will be billed as whole hours.
3. **PROJECT MANAGEMENT**
Project management will be billed for coordination and management of project and personnel.
4. **SCOPE OF SERVICES**
The scope of services is outlined in the Proposal, which along with these provisions, constitutes the agreement. "Services" meaning the specific analytical, testing, observation, or other service to be performed by MEG as set forth in MEG's proposal, CLIENT's acceptance thereof and these Provisions. The CLIENT has sole responsibility for determining whether the scope of MEG's services is adequate and sufficient based on the CLIENT's needs and budgetary constraints. The verbal or written ordering of services of MEG shall constitute acceptance of the terms of MEG's proposal and these Provisions, regardless of the terms of any subsequently issued document. MEG will perform all standard tests, inspections, and observations in general accordance with referenced standards and makes no representation regarding compliance with any other standards. MEG has no right or responsibility to approve, accept, reject, or stop work of any agent or the CLIENT. Any services not noted in this proposal are excluded from the scope of services.
5. **OUTSIDE SERVICES**
When technical or professional services are furnished by an outside source, when approved by CLIENT, an additional amount shall be added to the cost of these services for MEG's administrative costs, as provided on the previous page of the authorization.
6. **COST ESTIMATES**
Any cost estimate provided by MEG will be on a basis of experience and judgment, but since it has no control over the construction process, construction methods, construction sequence, construction scheduling and weather conditions MEG cannot and does not warrant that actual costs for services performed will not vary from these cost estimates.
7. **PROFESSIONAL STANDARDS**
MEG shall be responsible, to the level of competency presently maintained by other practicing professional engineers in the same type of work in the same locale and under similar circumstances at the time that the services are performed for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and other work and materials furnished under this Authorization. Upon notice to MEG and by mutual agreement between the parties, MEG will without additional compensation, correct those services not meeting such a standard. MEG makes no other warranty, expressed or implied.
8. **TERMINATION**
Either CLIENT or MEG may terminate this authorization by giving 30 days' written notice to the other party. In such event CLIENT shall forthwith pay MEG in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization.
9. **LEGAL EXPENSES**
In the event legal action is brought by CLIENT or MEG against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the party such reasonable amounts for fees, costs and expenses as may be set by the court.
10. **PAYMENT TO MILLENNIUM ENGINEERS GROUP, INC. / INTEREST ON PAST DUE AMOUNTS**
Monthly invoices will be issued by MEG for all work performed under the terms of this authorization. Invoices are due and payable on receipt. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law. Any interest charged or collected in excess of the highest legal rate will be applied to the principal amount owing to MEG, and if such interest exceeds the principal balance of CLIENT's indebtedness to MEG will be returned to the CLIENT. It is the intent of MEG and CLIENT to abide by all applicable laws regulating the maximum amount of interest, which may be charged. To the greatest extent allowed by applicable law, CLIENT and MEG agree that in the event CLIENT and MEG enter into any compromise or settlement calling for the payment of past due principal and accrued and unpaid interest on any past due invoice, MEG may charge and CLIENT agrees to pay interest on such combined past due principal and accrued and unpaid interest amount (the "New Principal Balance") at the rate of 1½% per month or the highest rate allowed by law, subject, as provided herein, to MEG's agreement to credit excess interest or return same to CLIENT after the New Principal Balance is paid.
11. **LIMITATION OF LIABILITY**
MEG's total cumulative liability to the CLIENT of MEG, it's subconsultants and subcontractors, and all of their respective shareholders, directors, officers, employees and agents (collectively "MEG Entities") arising from services under this agreement, including attorney's fees due under this agreement, will not exceed the gross compensation received by MEG under this agreement or \$250,700.00, whichever is greater. This limitation applies to all lawsuits, claims or actions that allege errors and omissions in MEG's services, whether alleged to arise in tort, contract, warranty or other legal theory.
12. **ADDITIONAL SERVICES**
Services in addition to those specified in Scope will be provided by MEG if authorized in writing by the CLIENT. Additional services will be paid for by the CLIENT as indicated in the Letter of Proposal, Task Authorization, or such other document as deemed appropriate by CLIENT and MEG, and which is referenced under Compensation.
13. **SALES TAX**
In accordance with the State Sales Tax Codes, engineering services are non-taxable at the present time. If the State of Texas, at any time, changes the State Sales Tax Code and engineering services become taxable, the applicable sales tax will be included for the services rendered. Sales tax, if applicable, will be indicated on invoice statements.

14. TERMINATION FOR NON-PAYMENT OF FEES

MEG may terminate this contract by giving written notice if any MEG invoice remains unpaid for more than sixty (60) days. MEG's right to terminate this contract shall not be waived by MEG's continued performance during any period of investigation by MEG to determine the reasons for CLIENT's nonpayment.

15. INDEMNIFICATION

The CLIENT agrees to the fullest extent permitted by law, to indemnify and hold harmless MEG, its officers, directors, employees and subconsultants against all damages, liabilities or costs including reasonable attorney's fees and defense costs, to the extent caused by the CLIENT's negligent acts in connection with the project and the acts of its representatives, contractors, subcontractors, or consultants or anyone for whom the CLIENT is legally liable. MEG agrees to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors, employees and subconsultants against all damages, liabilities or costs including reasonable attorney's fees and defense costs, to the extent caused by MEG's negligent acts in connection with the project and the acts of its representatives, contractors, subcontractors, or consultants or anyone for whom MEG is legally liable. Neither MEG nor the CLIENT shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

16. DELAYS AND FORCE MAJEURE

If site or other conditions prevent or inhibit performance of Services or if unrevealed hazardous materials or conditions are encountered, Services under this Authorization may be delayed. CLIENT shall not hold MEG responsible for damages or delays in performance caused by acts or omissions of CLIENT, its subcontractors, governmental authorities, regulatory agencies, civil or labor unrest, acts of God, nature, or terror, disruptions of the internet, MEG's electronic telecommunications or hosting services or any other events that are beyond the reasonable control of MEG. In the event of such delays, the contract completion date shall be extended accordingly and the CLIENT shall pay MEG for Services performed to the delay commencement date plus reasonable delay charges. Delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs incurred including but not limited to, labor and material escalation, and extended overhead costs, attributable to such delays.

17. DATA AND INFORMATION

CLIENT shall provide MEG all reports, data, studies, plans, specifications, documents and other information which are relevant to the Services. MEG shall be entitled to rely upon the Project Information provided by the CLIENT or others and MEG assumes no responsibility or liability for the accuracy or completeness of such. CLIENT waives any claim against MEG, and agrees to defend, indemnify and hold MEG harmless from any claim or liability for injury or loss allegedly arising from errors, omissions, or inaccuracies in the Project Information. MEG will not be responsible for any interpretations or recommendations generated or made by others, which are based, whole or in part, on MEG's data, interpretations or recommendations.

18. INTELLECTUAL PROPERTY

MEG shall own all Intellectual Property associated with the Services and the MEG Products, together with any modifications, updates or enhancements to said Intellectual Property. MEG grants no right or license to such Intellectual Property to CLIENT except as expressly provided in this Agreement. CLIENT conveys to MEG any interest in any such Intellectual Property rights that notwithstanding or foregoing, would otherwise be deemed by law to vest in CLIENT.

19. INFORMATION MANAGEMENT

CLIENT acknowledges that electronic media is susceptible to unauthorized modifications, deterioration, and incompatibility and therefore CLIENT cannot rely upon the electronic media versions of the Documents. In the event of any discrepancy, MEG's hardcopy shall prevail.

20. ON-SITE RESPONSIBILITIES AND RISKS

Unless otherwise agreed, CLIENT will furnish right of entry and obtain permits as required for MEG to perform the fieldwork. MEG will take reasonable precautions to minimize damage to land and other property caused in MEG's operations, but MEG has not included in the fee the cost of restoration of damage that may occur. If CLIENT desires MEG to restore the site to its former conditions and if MEG agrees to do so, MEG will undertake the repairs and add the cost to the fee.

21. CONSTRUCTION OBSERVATION AND TESTING

MEG does not guarantee the performance of, and shall have no responsibility for, the acts or omissions or health and safety procedures of any contractor, subcontractor, supplier, or any other entity furnishing materials or performing any work on the project. The CLIENT has not retained MEG to provide exhaustive or continuous project review and observation services. It is our understanding that testing will be scheduled by the CLIENT and MEG does not assume the responsibility for assuring all required tests are performed. The CLIENT understands that observation and testing are discrete sampling procedures, and that such procedures indicate conditions only found at the depth, location, and time the procedures were performed. The CLIENT understands that observation and testing are conducted to reduce and not eliminate project risk. The CLIENT agrees to the level or amount of testing performed and the associated risk. MEG shall not be responsible for the quality and completeness of CLIENT's contractor's work or their adherence to the project documents, and MEG's performance of testing and observation services shall not relieve the CLIENT's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee.

In case any one or more of the provisions contained in this Authorization shall be held illegal, the enforceability of the remaining provisions contained herein shall not be impaired thereby.



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.B.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Consideration and action, if any, on Interlocal Agreement between City of Pharr and City of San Juan for dual certification of Sanitary Sewer services.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The City of Pharr and the City of San Juan have come to an agreement to provide dual certification services for sanitary sewer to the Pharr ETJ.

Financial Consideration:

Staff Recommendation: Approval

Alternatives:

ROUTING:

Hilda Pedraza
Patricia Rigney
City Management Office

Created/Initiated - 5/15/2020
Approved - 5/15/2020
Final Approval - 5/15/2020

STATE OF TEXAS §
§
COUNTY OF HIDALGO §

I. RECITALS

II. TERMS OF AGREEMENT

(1) Transfer Area from San Juan to Pharr.

a. San Juan hereby agrees and consents to the dual certification by Pharr of that portion of San Juan's sanitary sewer utility service area identified on the attached map, attached hereto and incorporated herein for all purposes as Exhibit A ("Dual Certification Area").

b. San Juan and Pharr agree that, after _____, Pharr and San Juan shall both have the right to provide retail sanitary sewer service within the Dual Certification Area. Notwithstanding the foregoing, Pharr's right to provide service in the Dual Certification Area shall be limited to service to new customer connections which were not receiving sanitary sewer service from San Juan on the Effective Date of the Agreement.

(2) Amendment of CCNs. Within thirty (30) days after the Effective Date of this Agreement, Pharr shall prepare and file an application with the Public Utility Commission of Texas (PUC) requesting that the PUC:

a. incorporate this Agreement into the respective CCNs of Pharr and San Juan pursuant to Texas Water Code § 13.248;

b. dually certificate the Dual Certification Area to Pharr and San Juan.

San Juan and Pharr shall endeavor to obtain the PUC's approval of the CCN amendments contemplated herein in an expeditious manner and will support and cooperate with each other and the PUC to accomplish this goal. If the PUC denies Pharr's and San Juan's request for dual certification, this Agreement shall terminate.

(3) Payments. For each new sewer service customer connected by Pharr in the Dual Certification Area after the Effective Date of this Agreement, Pharr agrees to pay San Juan forty (40) percent of the net revenues collected by Pharr from the sewer service rates charged to the new customers. Net revenues mean those revenues remaining after operation and maintenance costs, debt service costs, and capital investment costs associated with or attributable to service to the Dual Certification Area are deducted from the gross revenues. Fees collected from customers in the Dual Certification Area, such as connection fees, impact fees, late payment fees, and disconnection fees, are not included in the net revenue calculation. The net revenues will be determined solely by Pharr. Payments made to San Juan pursuant to this section shall be made by the thirtieth (30th) day of each month for the previous month's collections of net revenue. Payments under this section will begin on the thirtieth (30th) day of the month following the first month in which Pharr has one or more active sewer service customer in the Dual Certification Area.

(4) CCNs After Agreement on City Limits and ETJ. If the Parties execute an agreement regarding their respective jurisdictional boundaries (city limits and extraterritorial jurisdiction) in the Dual Certification Area ("Jurisdictional Boundary

Agreement”), upon the effective date of such agreement, the Parties agree that Pharr will no longer be obligated to pay San Juan net revenues as provided by Section (3) above. Pharr will make a final payment to San Juan for the net revenues that have accrued prior to the effective date of the Jurisdictional Boundary Agreement in accordance with the payment requirements in Section (3). The Parties further agree to include in any Jurisdictional Boundary Agreement an agreement to provide for the single certification of the Dual Certification Area consistent with the Parties’ agreement regarding their respective jurisdictional boundaries and to seek PUC approval of the same. Thus, the areas within the Dual Certification Area that would be within San Juan’s city limits and extraterritorial boundaries as set out in the Jurisdictional Boundary Agreement would be singly certificated to San Juan. Similarly, the areas within the Dual Certification Area that would be within Pharr’s city limits and extraterritorial boundaries as set out in the Jurisdictional Boundary Agreement would be singly certificated to Pharr.

(4) Applicable Law. This Agreement shall be construed and interpreted in accordance with the applicable provisions of the Texas Water Code including but not limited to Texas Water Code § 13.248.

III. MISCELLANEOUS

(5) Applicable Texas Law. This Agreement shall be governed by and construed and enforced under the laws of the State of Texas.

(6) Performance. The obligations and undertakings of each of the parties to this Agreement shall be performed in Hidalgo County, Texas. Except for matters within the jurisdiction of the PUC (or its successor), the Parties expressly agree that all judicial proceedings to enforce any of the provisions of this Agreement shall take place in Hidalgo County, Texas.

(7) Entire Agreement. This Agreement contains the entire agreement of San Juan and Pharr with respect to the subject matter of the Agreement. No Agreement, statement, or promise made by any Party or to any employee, agent, or officer of any Party, that is not contained in this Agreement shall be valid, binding, or of any force or effect. Any amendments to this Agreement must be in writing and signed by the Party or Parties to be charged.

(8) Notice. Any notice required or permitted hereunder shall be in writing and shall be deemed to be delivered on the date received if delivered by hand to the address shown hereinafter for Pharr or San Juan, as appropriate, or such notice shall, if deposited in the mail, be deemed to be delivered, whether actually received or not, on the first business

day after having been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to Pharr or San Juan, as appropriate, at the address shown hereinafter. The addresses for Pharr or San Juan for all purposes under this Agreement shall be the following:

If to Pharr:	City of Pharr c/o City Manager 118 South Cage Blvd. Pharr, TX 78577 Phone: 956-402-4000 Fax: 956-702-5313
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If to San Juan:	City of San Juan c/o City Manager 709 S. Nebraska St. San Juan, TX 78589 Phone: 956-223-2200 Fax: 956-787-5978
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The Parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days' written notice to the other Party.

(9) Successors and Assigns. This Agreement shall be binding upon the Parties hereto and their respective successors, heirs, representatives, and assigns.

(10) Agreement Drafted Equally. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against either Party shall not apply.

(11) Severability. Should any provision of this Agreement be declared void by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

(12) Attorney's Fees. In the event of any suit or other adjudication between the Parties to enforce any claim arising out of this Agreement, or to interpret the terms of this Agreement, the prevailing Party shall be entitled to recover its fees, damages, costs, attorneys' fees, and such other and further relief from the non-prevailing Party, general or special, at law or in equity, to which the prevailing Party may show itself justly entitled.

(13) Covenant of Authority. San Juan and Pharr each covenant that it has authority to agree to the dual certification of the Dual Certification Area. The respective signatories to this Agreement covenant that they are fully authorized to sign this Agreement on behalf of their respective Party.

(14) Time. Time is of the essence in all things pertaining to the performance of this Agreement.

(15) Effective Date. The term "Effective Date" as used in this Agreement shall be the date on which this Agreement is executed by the last to sign of Pharr or San Juan.

IN WITNESS WHEREOF, EXECUTED by the President of the San Juan and President of Pharr under the authority of their respective governing bodies in Duplicate Originals on the dates indicated below.

THE CITY SAN JUAN

BY: _____
Mario Garza,
Mayor of the City of San Juan

Date: _____

ATTEST:

City Secretary of San Juan

THE CITY OF PHARR

BY: _____
Dr. Ambrosio Hernandez
Mayor of the City of Pharr

Date: _____

ATTEST:

City Secretary of Pharr



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.C.

DATE SUBMITTED: May 14, 2020

MEETING DATE: May 18, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Public Works

DIRECTOR: Pilar Rodriguez

Agenda Item: Consideration and action, if any, on Interlocal Agreement between City of Pharr and City of San Juan for paving and traffic loops.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The Public Works Department requires the replacement of traffic signal loop detectors at the intersection of Polk Avenue and Veterans Boulevard to improve the efficiency of the intersection and progression of traffic along the major roadway. In order to do so, the roadway pavement requires improvements as part of the Year 5 Street Repaving Program. The east approach of the intersection lies within San Juan City limits and requires an Interlocal Agreement with the City of San Juan to allow for improvement to be constructed.

Approximately 200 feet of the east approach will be repaved to allow for the installation of a new traffic signal loop.

Financial Consideration: The estimated cost for paving the east approach of the intersection of Polk Avenue and Veterans Boulevard is \$9,001.50.

Staff Recommendation: Based on review by this office, staff recommends approval of the Interlocal Agreement between Cities of San Juan and Pharr as presented.

Alternatives:

ROUTING:

Hilda Pedraza
Pilar Rodriguez
Patricia Rigney

Created/Initiated - 5/14/2020
Approved - 5/14/2020
Approved - 5/15/2020

Karla Moya
City Management Office

Approved - 5/15/2020
New -

STATE OF TEXAS

§

COUNTY OF HIDALGO

§

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**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF PHARR, TEXAS AND
THE CITY OF SAN JUAN, TEXAS**

THIS Agreement is made on this the _____ day of **MAY, 2020**, by and between the **CITY OF PHARR, TEXAS**, hereinafter referred to as "Pharr", and the **CITY OF SAN JUAN, TEXAS**, hereinafter referred to as "San Juan", pursuant to the provisions of the Texas Inter-local Cooperation Act, as follows:

WITNESSETH:

WHEREAS, Pharr and San Juan are home rule municipalities located in Hidalgo County, Texas;

WHEREAS, Pharr and San Juan, each pursuant to their statutory and constitutional authority are responsible for the maintenance and improvements of public roadways within their boundaries; and

WHEREAS, Pharr is in the process of installing new traffic loops at the intersection of Polk Avenue and Veterans Boulevard (as shown in Exhibit "A") in Pharr, Texas; and

WHEREAS, Pharr needs to repave portions of Polk Avenue and Veterans Boulevard in order to install the traffic loops to improve the signal timing of that intersection; and

WHEREAS, a section of Polk Avenue that requires repaving lies within the San Juan boundary; and

WHEREAS, the Pharr and San Juan agree that this project serves the common interest of both parties and will benefit the public.

NOW, THEREFORE, City and County in consideration of the mutual covenants expressed above, agree between each other as follows:

1. Pharr agrees to:

- A. Complete the Project within or no later than June 30, 2020.
- B. Pay all expenses and furnish all materials, labor, and equipment for the project. Including stabilization materials, hot mix asphalt, asphalt emulsion, and flexible base.
- C. Haul and furnish a site for dumping waste materials generated during this project.
- D. Furnish necessary temporary traffic controls devices in accordance with the Texas Manual on Uniform Traffic Control Devices, latest.
- E. Provide permanent driving lane pavement markings.

- F. If a Storm Water Pollution Prevention Plan is required, the City will be responsible for the design and development of the Plan. City will pay for all cost (including subcontractor materials, labor and equipment) associated with the implementation and maintenance of the Plan.
- G. Verify the location of all utility locations, mark those locations and then remove the utilities that will interfere with the progress of the project.
- H. Provide a stockpile site for materials used for this project.
- I. Provide a construction material testing lab for this project.
- J. The repaving will include:
 - 1. Hot in situ pavement material;
 - 2. Application of rejuvenator oil to the in situ pavement material;
 - 3. Application of 1 inch of compacted virgin Type D Hot Mix Asphaltic Concrete material.
- K. The traffic signal loop detector will be a saw cut 6 foot by 40 foot inductive loop conductor sealed with an asphaltic sealant.

2. **San Juan agrees to:**

- a. Maintain the portion of the paved street upon completion of repaving by Pharr.

3. **Procedures During Project**

San Juan retains the right to inspect the project and reject materials provided for this project. Pharr will provide quality assurance inspection for the project. If San Juan has a complaint regarding the construction of the project, San Juan must complain in writing to Pharr within 30 days of project completion. Pharr will rectify the complaint within 30 days of written notice. Upon expiration of 30 days after project completion, San Juan becomes responsible for the maintenance of the project.

- 4. **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between and provision of their Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provision of this Agreement shall be modified only to The extent necessary to bring them within the legal requirements and only during the times such conflict exists.
- 5. **No Waiver.** No waiver by any party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
- 6. **Entire Agreement.** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by City and County, and not otherwise.

7. **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.
8. **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to Pharr: City of Pharr
 Attention: Mayor Ambrosio "Amos" Hernandez
 P. O. Box 1729
 Pharr, TX 78577-1632

If to San Juan: City of San Juan
 Attention: Mayor Mario Garza
 709 South Nebraska
 San Juan, Texas 78589

With a copy to: Benjamin Arjona
 San Juan City Manager
 709 South Nebraska
 San Juan, Texas 78589

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

10. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
11. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
12. **Assignment.** This Agreement shall not be assignable.
13. **Headings.** The headings and captions contained in this Agreement are solely for convenience reference and shall not be deemed to affect the meaning or interpretation of any provision of paragraph hereof.
14. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and so often as may be appropriate.

15. **Authority to Execute.** The execution and performance of this Agreement by City and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of City and County in accordance with its terms.
16. **Governmental Purpose.** Each party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.
17. **Commitment of Current Revenues** Only in the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the **parties** hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. §271.903.
18. **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.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

THE CITY OF SAN JUAN

THE CITY OF PHARR

BY: _____
Mario Garza, Mayor

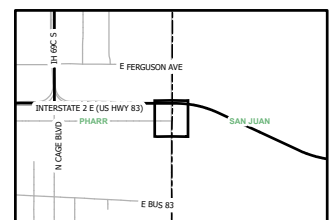
BY: _____
Ambrosio "Amos" Hernandez, Mayor

ATTEST:

ATTEST:

BY: _____
Diana Cavazos, City Secretary

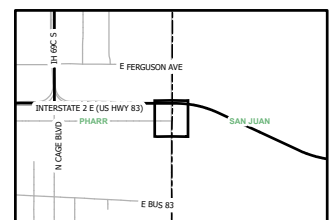
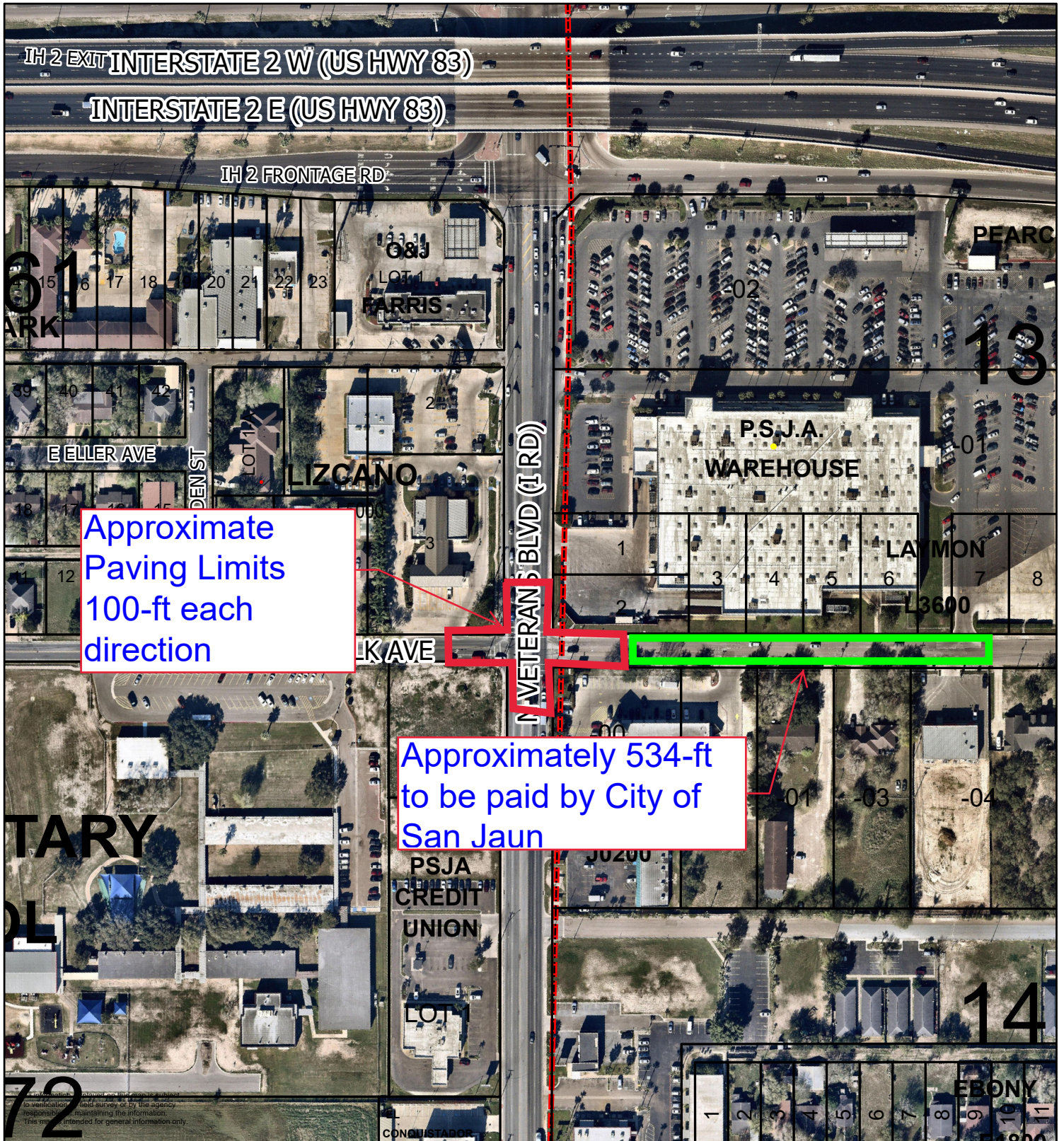
BY: _____
Hilda Pedraza, City Clerk



Base Bid					
Item No.	Description	Qty.	Unit	Unit Price	Total Price
Pavement Recycling					
1	1-in Recycling (single-pass method) as per section 02616R	411	SY	\$ 3.12	\$ 1,282.67
2	Recycling agent	82	GAL	\$ 3.65	\$ 300.11
3	Curbline milling. Include removal and hauling of milling by the contractor	400	LF	\$ 2.30	\$ 920.00
4	MH adjustment to grade	-	EA	\$ 270.00	\$ -
5	Valve adjustment to grade	-	EA	\$ 175.00	\$ -
6	HMAC TY D limestone aggregate(1") (Include delivery and placement)	411	SY	\$ 5.62	\$ 2,310.44
Intersection Approach Repair					
19	HMAC TY D Limestone Aggregate(4") (Include delivery and placement)	83	SY	\$ 24.50	\$ 2,041.65
20	Misc. milling (4"). Include removal, hauling and proper disposal of materials (refer to section 02102 part 3.03)	83	SY	\$ 9.00	\$ 749.99
Base Repair					
21	Caliche and asphalt removal (8") including hauling and proper disposal of material (refer to section 02102 part 3.03	8	SY	\$ 10.00	\$ 82.22
22	Caliche(6") W/3% lime (TY F GR 3). Include delivery and Placement	8	SY	\$ 24.00	\$ 197.33
23	Prime Coat (MC-30)	50	GAL	\$ 8.00	\$ 399.11
24	HMAC TY D Limestone Aggregate (2") (Include Delivery and Placement	8	SY	\$ 15.70	\$ 129.09
Allowance					
26	Allowance	1	LS		\$ -

Recycling Agent Rate	20%
Base Repair Rate	2%
Prime Coat Rate	50%
CMT	2%
Contingency	5%

Total	\$	8,412.61
CMT (2%)	\$	168.25
Contingency (5%)	\$	420.63
Grand Total	\$	9,001.50





AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.D.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Jose Pena, IT Director

DEPARTMENT: IT

DIRECTOR: Jose Pena

Agenda Item: Consideration and action, if any, authorizing City Manager to enter into a contract with Kronos SaaS, Inc. for subscription services for the Workforce Ready cloud time and attendance software. (Project # 1920-01-518-S038-001)

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The City has been using the Kronos time and attendance solution since 2013 and has been valuable in running our payroll for all personnel. This new solution is what replaces our existing solution due to end of life support to 3rd party software Kronos relied on, Java and Flash. This new solution will run from the cloud and will no longer restrict the city to use a specific number of licenses, we can now have as many supervisors/managers review timesheets to expedite timesheet approvals for payroll purposes at no additional expense.

Financial Consideration: Minimum annual maintenance of \$43,982.40 but will be paying \$5.39 per employee per month for actual numbers of employees on payroll.

Staff Recommendation: Staff recommends approval of the Workforce Ready platform from Kronos.

Alternatives:

ROUTING:

Jose Pena
Ignacio Amezcua
Anali Alanis
Patricia Rigney
Karla Moya

Created/Initiated - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
New -

City Management Office



Quote#: Q-39844
Expires: 5/22/2020
Sales Executive: Ian Lesniewski

ORDER FORM

Order Type: Quote
Date: 4/30/2020

Bill To Contact:

Bill To: CITY OF PHARR
118 S CAGE ST
PHARR, TX 78577 USA

Ship To Contact: Jason A Fernandez

Ship To: CITY OF PHARR
118 S CAGE ST
PHARR, TX 78577 USA

Ship to Phone: 956-402-4900
Contact: Jason A Fernandez
Email: jason.fernandez@pharr-tx.gov

Currency: USD
Customer PO Number:
Solution ID: 6113108
Initial Term: 36 months
Billing Start Date: 120 Days from Execution of
Order Form
Data Center Location: USA

FOB: Shipping Point
Ship Method:
Freight Term: Prepay & Add
Renewal Term: 12 months
Payment Term: Net 30 Days

Order Notes:

The Professional Services Engagement Overview is attached to this Order Form as a summary for the implementation services to be provided by Kronos for the Workforce Ready Setup Fees set forth on this Order Form.

The parties agree that Customer is migrating from their existing Kronos Workforce Central perpetual software licenses (the "Existing Applications") to the Kronos Workforce Ready software as a service offering. Customer's Software Support and Cloud Hosting services, as applicable, for the Existing Applications shall continue, in accordance with Kronos Support policies, at no cost for a period of ninety (90) days from execution of this Order Form, and shall terminate thereafter, unless Customer chooses to reinstate Software Support and Cloud Hosting services, as applicable, at applicable fees. Workforce Ready Monthly Service Fees shall be invoiced at the Billing Frequency indicated on this Order Form, commencing on the Billing Start Date. As of the Billing Start Date, Kronos will credit Customer for any pre-paid but unused fees for Software Support and/or Cloud Hosting services (as applicable) for the Existing Applications. Customer may apply credits against any amounts owed to Kronos by Customer until such credit is expended. Customer shall continue to pay the Software Support and/or Cloud Hosting services fees on the Existing Applications until the Billing Start Date.

SaaS Services

Billing Frequency: Monthly in Arrears

Product Name	Quantity	PEPM	Monthly Price
WORKFORCE READY TIME KEEPING	680	USD 4.62	USD 3,141.60

Product Name	Quantity	PEPM	Monthly Price
WORKFORCE READY ACCRUALS	680	USD 0.77	USD 523.60
WORKFORCE READY INTEGRATION HUB	1	USD 0.00	USD 0.00
Total Price			USD 3,665.20

One Time Setup Fees

Billing Frequency: Fixed Fee 100% at signing

Item	Total Price
One Time Setup Fees	USD 8,500.00

Quote Summary

Item	Total Price
Minimum Monthly SaaS Service & Equipment Rental Fee	USD 3,665.20

Item	Total Price
Minimum Annual SaaS Service & Equipment Rental Fee	USD 43,982.40

	Total Price
Total One Time Fees	USD 8,500.00

CITY OF PHARR**Kronos SaaShr, Inc.**

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Effective Date: _____

Effective Date: _____

Invoice amount will reflect deposit received. All professional services are billed as delivered with a payment term of Net Upon Receipt. Unless otherwise indicated above, this order is subject to the attached terms and conditions which the customer acknowledges have been read. THIS ORDER IS SUBJECT TO APPLICABLE TAXES. THE ACTUAL TAX AMOUNT TO BE PAID BY CUSTOMER WILL BE SHOWN ON CUSTOMER'S INVOICE. Shipping and handling charges will be reflected on the final invoice. The Monthly Price on this Order Form has been rounded to two decimal places for display purposes. As many as eight decimal places may be present in the actual price. Due to the rounding calculations, the actual price may not display as expected when displayed on your Order Form. Nonetheless, the actual price on your invoice is the true and binding total for this order for purposes of amounts owed for the term. If you are tax exempt; please provide a copy of your "Tax Exempt Certificate" with your signed quote.



Professional Services Engagement Overview

Purpose and Overview of Engagement

This Professional Services Engagement Overview outlines the scope of services to be provided by Kronos for the Setup Fees indicated on the applicable Order Form, to CITY OF PHARR ("Customer") related to the Core Modules, Value-add Modules, and/or Optional Services contained in the document. Our Professional Services engagements are designed to help our Customers successfully implement your Core Modules, as well as enable you to easily layer Value-add Modules and functionality over time based on your priorities, schedule, and resources.

The Kronos® Workforce Ready® (WFR) Professional Services engagement described herein is fixed price based and is subject to the terms and conditions governing your Kronos Workforce Ready – Software as a Service (the "Agreement"). Unless otherwise defined herein, words and expressions defined in the Agreement shall have the same meaning in this Professional Services Engagement Overview

Your Workforce Ready SaaS Solution

CITY OF PHARR and Kronos are deploying the following WFR modules with 1 location(s) and 0 collective bargaining agreements(s).

Core Modules	Employees	Deployments	Estimated Duration
WORKFORCE READY TIME KEEPING	680	1	90 Days
WORKFORCE READY ACCRUALS	680	1	

CITY OF PHARR and Kronos Collaboration

A successful Professional Services Engagement will require close collaboration between CITY OF PHARR and Kronos. The Kronos Professional Services team is equipped to help keep you on target for meeting project milestones and requirements, as well as to assist you in configuring and deploying the Kronos Workforce Ready solution that meets your organization's specific requirements. Your organizations participation and commitment to the project goals and timeline are critical to help ensure success. Please see the Kronos Workforce Ready Professional Services Engagement Guidelines at

<https://www.kronos.com/kronos-workforce-ready-implementation-guidelines> to review both parties' responsibilities

The Estimated Duration stated above is an estimate based upon our experience with our customers and products. Depending upon the preparation and engagement of your organization, there may be opportunity to accelerate the completion of this engagement. However, the Estimated Duration may be exceeded based on the level of preparedness, bandwidth, and skill level of your available resources. Other examples that may extend the Estimated Duration include: separate deployments of the solution, having a unionized workforce, and policies that vary across employee groups.

Core Functionality Deliverables

Working in close collaboration, CITY OF PHARR and Kronos will deploy the following core modules and functionality in 90 estimated days from project kick-off:

WFR Core	Kronos Delivered Value
Time Keeping Module	WFR Time Keeping deployment gets you started with the ability to accept punches and pay employees accurately through these core components: • Total Cost Centers • Profiles • Timesheet • Time Off Request • Pay Calculations • Pay Prep • Accruals • Security • Points • Tables • Rate • Holiday • Manager Levels • Employee Perspective Scorecards • Workflows • Time Off Requests • Timesheet Change Requests • Schedules • Daily Rules

	• Work Schedule Profiles • Pay Periods • Counters • Time Off Categories • Reports • Standard TLM Pre-Configured (61) • Custom up to 5 • Timekeeping Admin Training
Accruals Module	WFR Accruals module adds comprehensive accrual administration to Workforce Ready Time Keeper by automatically enforcing your timeoff policies through: • Consistent enforcement of policy • Configurable calculation methods & grants • Time-Off routing & approval workflow(requires TLM) • Time-Off requests at data collection devices • Automatic updates to schedule & timecard (requires TLM) • Visibility to projected balances • Automatic balance reduction (requires TLM or PR) • View time-off calendars for groups • Mobile access • One-Time data load using customer-supplied data for current year in a standard Kronos-supplied format • Accrual balance interface with 3rd party payroll system • WFR accruals requires WFR Timekeeper

Value-Add Functionality Deliverables

Once your core functionality is deployed, Kronos will work in close collaboration with CITY OF PHARR to deploy the following Value-Add modules and/or functionality over time in short, agile deployments aligned with your priorities, schedule, and resources:

Value-Add	Kronos Delivered Value
Integration Hub	WFR Integration Hub enables data to flow between WFR and 3rd party applications and/or vendors. If the 3rd party application and/or vendor does not accept the standard Workforce Ready formatting and/or methods for automated delivery, a formatted file will be delivered instead. The customer is responsible for providing import files to Kronos in the standard Workforce Ready format and utilizing the standard Workforce Ready delivery method. Kronos will deliver a standard bundle of up to 5 interfaces. Each direction (To/From) any 3rd party system and Kronos is considered a separate interface. Interfaces will be accomplished via standard file Exchange. Customer will work with Kronos and 3rd party vendors to facilitate design and testing. The Method of the file exchange will be determined by Kronos WFR Professional Services Delivery Team. Kronos will provide standard Import/Export files using Integration Hub. Customer will work with the 3rd parties and Kronos to provide the data in the Kronos format for imports. Kronos will create a report from standard Workforce ready fields in the 3rd party format to send to the 3rd party system. Non-standard and custom or bi/multi-directional integrations/interfaces are not included in this project. • Timekeeping Interface bundle using customer-supplied data in standard file formats • Demographic interface with 3rd Party HR • Cost Center Import from 3rd Party HR/Payroll System • Job import from 3rd party HR system • Work schedule import from unlimited 3rd party scheduler systems in Kronos file format • Pay data export to 3rd party payroll system • Accruals Interface bundle using customer-supplied data in standard file formats • Accrual balance interface with 3rd party payroll system • Demographic import from 3rd party system • Cost Center import from 3rd party system • Employee skills import from 3rd party system • Demographics import from 3rd party HR system

Online Training and Support Tools

The **My Learning** area within Workforce Ready provides immediate access to online, role-based education content and support tools that provide step-by-step training on solution features and functions to drive proficiency and user adoption. Your managers and employees can gain proficiency and boost productivity by taking full advantage of:

- **Three-minute simulations:** Quick demonstrations of common tasks provide effective training or skills reinforcement
- **Job aids:** Handy, printable reference sheets with step-by-step instructions for performing common tasks supplement and support employee training to drive high user adoption and productivity
- **Sandboxes with exercises:** Available for Administrators, these tools let users practice performing tasks from an exercises document in a training database.

Please see Workforce Ready Customer Training Options for more information on training roles and available content.

Assumptions

Kronos has used the following assumptions and dependencies in preparing this Professional Services Engagement Overview:

- All services will be delivered remotely, unless otherwise stated. The project kick-off date will be determined based on complexity of the implementation and resource availability, and may start up to 30 days after a Workforce Ready Order Form is executed by the Customer.

- Prior to the start of the project, the Customer will confirm in writing the business and technical requirements of the project.
- Kronos will communicate with Customer's Project Manager, the appointed Point of Contact for Customer on this project. He/she will be responsible for all communications and project management among all Customer parties (staff, vendors, consultants) and for the escalation and resolution of any issues for Customer. Customer is responsible for all hardware, software, and services provided by other consultants or third party vendors that may also be involved with the project.
- Kronos will not be responsible for troubleshooting the Customer's environment such as their operating system, hardware resources, or database schema.
- Kronos will not be responsible for troubleshooting applications or hardware not provided by Kronos.
- Change Orders are subject to scope review and may impact the project timeline or cost. If additional work beyond the initial scope of this Professional Services Engagement Overview is required as a result of a Change Order, the Customer may be charged.

Change Orders

Requests for change to this Professional Services Engagement Overview or the project it covers must be submitted to your Kronos Sales Executive and Kronos Workforce Ready Consultant in writing.

Any of the following items will be considered Out of Scope and require a Change Order:

- Material changes in the Scope or effort
- Material changes in the number or type of Deliverables to meet the defined scope of effort
- Changes to the project resource requirements
- Changes to scheduled dates after acceptance of the Project Plan
- Kronos will not be responsible for troubleshooting applications or hardware not provided by Kronos.
- Change Orders are subject to scope review and may impact the project timeline or cost. If additional work beyond the initial scope of this Professional Services Engagement Overview is required as a result of a Change Order, the Customer may be charged.

Kronos will estimate the time and fixed cost needed to implement the change and the impact it may have on the delivery of project covered under this Professional Services Engagement Overview. Kronos will perform the requested work once the Change Order has been completed and signed by the Customer.

Completion Criteria

The project covered under this Professional Services Engagement Overview will be considered complete when any one of the following completion criteria is met. Once one of these is met, no further work will be completed. If additional work is required, a Change Order or new Professional Services Engagement Overview must be generated.

Completion Criteria:

- The Customer has approved in writing
- The System has been put into use within a production environment for 14 calendar days
- More than twelve (12) months has passed since the date of signature of the Workforce Ready Order Form

The Customer may provide approval in writing via email or an alternative agreed upon method.

KRONOS WORKFORCE READY® - SOFTWARE AS A SERVICE TERMS AND CONDITIONS

City of Pharr ("Customer") and Kronos SaaS, Inc. ("Kronos") agree that the terms and conditions set forth below shall apply to the Kronos supply of the commercially available version of the Workforce Ready® SaaS Applications in Kronos' hosting environment, the services related thereto, and the sale or rental of Equipment (if any) specified on a Kronos Order Form. The Applications described on the Order Form shall be delivered by means of Customer's permitted access to the infrastructure hosting such Applications.

BY MANUALLY OR ELECTRONICALLY EXECUTING AN INITIAL ORDER FORM REFERENCING THESE TERMS AND CONDITIONS OR TO WHICH THESE TERMS ARE ATTACHED, CUSTOMER AGREES TO THESE TERMS AND CONDITIONS FOR ALL ORDER FORMS. THE INDIVIDUAL ACCEPTING THESE TERMS AND CONDITIONS ON BEHALF OF CUSTOMER REPRESENTS THAT HE/SHE HAS THE AUTHORITY TO CONTRACTUALLY BIND CUSTOMER. THESE TERMS AND CONDITIONS AND THE ORDER FORM(S) (AND ANY ATTACHMENTS THERETO) TOGETHER FORM A BINDING AND EXECUTED WRITTEN AGREEMENT BETWEEN CUSTOMER AND KRONOS.

1. DEFINITIONS

"Agreement" means these terms and conditions and the Order Form(s).

"Application(s)" or **"SaaS Application(s)"** means those Kronos software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Agreement.

"Billing Start Date" means the date the billing of the Monthly Service Fees begin to accrue as indicated on the applicable Order Form. The Billing Start Date of the Monthly Service Fees for any Services ordered by Customer after the date of this Agreement which are incremental to Customer's then-existing Services shall be the date the applicable Order Form is executed by Kronos and Customer.

"Confidential Information" means any non-public information of a party or its Suppliers relating to such entity's business activities, financial affairs, technology, marketing or sales plans that is disclosed pursuant to this Agreement and reasonably should have been understood by the receiving party, because of (i) legends or other markings, (ii) the circumstances of disclosure or (iii) the nature of the information itself, to be proprietary and confidential to the disclosing party or its Suppliers.

"Customer Content" means all content Customer, or others acting on behalf of or through Customer, posts or otherwise inputs into the Services.

"Documentation" means technical publications published by Kronos relating to the use of the Services.

"Educational Content" has the meanings ascribed in Section 7.4.

"Equipment" means the Kronos equipment purchased or rented by Customer under this Agreement.

"Initial Term" means the initial term of the Services as indicated on the Order Form.

"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications, the Services, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

"Order Form" means an order form mutually agreed upon by Kronos and Customer setting forth the items ordered by Customer and to be provided by Kronos and the fees to be paid by Customer.

"Personally Identifiable Data" means information concerning individually identifiable employees of Customer that is protected against disclosure under applicable law or regulation.

"Renewal Term" means the renewal term of the Services as indicated on the Order Form.

"Services" means (i) accessibility to the commercially available version of the Applications by means of access to the password protected customer area of a Kronos website, and all such services, items and offerings accessed by Customer therein, and (ii) the Equipment rented hereunder, if any.

"Supplier" means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Services.

"Term" means the Initial Term and any Renewal Terms thereafter.

2. TERM

2.1 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated in accordance with the provisions hereof. At the expiration of the Initial Term and each Renewal Term as applicable, the Services shall automatically renew for additional Renewal Terms until terminated in accordance with the provisions hereof.

2.2 Either party may terminate the Services and this Agreement to be effective at the expiration of the then current Term upon no less than sixty (60) days prior written notice.

2.3 Either party may terminate the Services and the Agreement upon a material breach of the Agreement by the other party if such breach is not cured within fifteen (15) days after receipt of written notice.

Notwithstanding the foregoing, Kronos may suspend the Services immediately upon notice in the event of any Customer breach of Sections 4 (Rights to Use), 5 (Acceptable Use), or 15 (Confidential Information).

2.4 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, or files a petition seeking reorganization, the other party may request adequate assurances of future performance. Failure to provide adequate assurances, in the requesting party's reasonable discretion, within ten (10) days of delivery of the request shall entitle the requesting party to terminate the Agreement immediately upon written notice to the other party.

2.5 If the Agreement is terminated for any reason:

(a) Customer shall pay Kronos within thirty (30) days of such termination, all fees accrued under this Agreement prior to the effective date of such termination, provided however, if Customer terminates for material breach of the Agreement by Kronos, Kronos shall refund Customer any pre-paid fees for services not delivered by Kronos;

(b) Customer's right to access and use the Applications shall be revoked and be of no further force or effect;

(c) Customer shall return any rented Equipment as provided in Section 9.1 below;

(d) Customer agrees to timely return all Kronos-provided materials related to the Services to Kronos at Customer's expense or, alternatively, destroy such materials and provide Kronos with an officer's certification of the destruction thereof; and

(e) All provisions in the Agreement, which by their nature are intended to survive termination, shall so survive.

2.6 Unless otherwise mutually agreed to by the parties, Customer Content shall be available to Customer to retrieve at any time and at no additional charge throughout the Term and for no more than thirty (30) days after expiration or termination of the Agreement for any reason. After such time period, Kronos shall have no further obligation to store or make available the Customer Content. Kronos will delete Customer Content after Customer's rights to access the Services and retrieve Customer Content have ended.

3. FEES AND PAYMENT

3.1 Customer shall pay Kronos the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form or subject to Section 17.9 below. Billing will commence on the Billing Start Date with the Monthly Service Fees to be billed on the frequency set forth on the Order Form ("Billing Frequency"). Unless otherwise indicated on the Order Form, Kronos will bill Customer for all implementation services in advance. Purchased Equipment will be billed upon shipment of such Equipment. Customer authorizes Kronos to charge the debit card or credit card on file with Kronos in an amount equal to the Monthly Service Fees as all such fees become due under this Agreement. For all other payments and fees due under this Agreement, payment shall be due 30 days following date of invoice unless otherwise indicated on an Order Form. Except as expressly set forth in the Agreement, all amounts paid to Kronos are non-refundable. Customer is responsible for all applicable taxes relating to the goods and services provided by Kronos hereunder (including without limitation GST and/or VAT if applicable), excluding taxes based on Kronos' income or business privilege.

3.2 Unless otherwise indicated on the Order Form, the Setup Fees shall be invoiced upon execution of the Agreement and shall be due net thirty (30) days following date of invoice. Monthly Service fees shall be based on monthly periods that begin on the Billing Start Date. Monthly Service Fees shall include fees for Equipment rental, if any. Monthly Service Fees for Services added on or before the 15th day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15th day of a given month will begin to accrue as of the 1st day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were

accrued. Kronos will monitor Customer's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; (c) per transaction basis (e.g.: pay statement); or, (d) per access point. For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; or (vi) such employee has been marked by Customer as having an "Active" status during the period.

3.3 Customer agrees that except in those circumstances in which Customer is entitled to invoke the termination for cause provision set forth in Section 2.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Customer agrees to pay Kronos each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") which shall be calculated by Kronos based the amounts identified on all Order Forms for Customer's Usage of the Services, plus Equipment rental fees, if any. In the event that Customer does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Customer shall remain responsible for paying the Minimum Monthly Fees for that month. If an Order Form or the Agreement is suspended by Kronos for non-payment or otherwise terminated by Kronos for cause, Customer shall remain liable to pay the applicable Minimum Monthly Fees through the then-current Term.

3.4 If any amount owing under this or any other agreement between the parties is thirty (30) days or more overdue, Kronos may, without limiting Kronos' rights or remedies, suspend Services until such amounts are paid in full. Kronos will provide at least seven (7) days prior written notice that Customer's account is overdue before suspending Services.

3.5 At the later of (i) one (1) year after the effective date of this Agreement, or (ii) expiration of the Initial Term, and at each annual anniversary of that date thereafter, Kronos may increase the Monthly Service Fee rates in an amount not to exceed four percent (4%). The increased Monthly Service Fees will be reflected in the monthly invoice following the effective date of such increase without additional notice. For renewals based on the Annual in Advance Billing Frequency, Kronos will provide Customer with the renewal invoice prior to commencement of the Renewal Term and payment will be made by Customer in accordance with the payment terms agreed upon with Customer for the Initial Term.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Agreement, Kronos hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation and training materials; and, b) any embedded third party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Kronos and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Customer shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Customer acknowledges and agrees that the right to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Customer. Customer agrees to use only the modules and/or features described on the Order Form. Customer agrees not to use any other modules or features unless Customer has licensed such additional modules or features. Customer may not relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Customer may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder. When using and applying the information generated by the Services, Customer is responsible for ensuring that Customer complies with applicable laws and regulations.

4.2 Customer may authorize its third party contractors and consultants to access the Services through Customer's administrative access privileges on an as needed basis, provided Customer: a) abides by its obligations to protect Confidential Information as set forth in this Agreement; b) remains responsible for all

such third party usage and compliance with the Agreement; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

4.3 Customer acknowledges and agrees that, as between Customer and Kronos, Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein and under any other agreement in writing with Customer, Customer shall not obtain or claim any rights in or ownership interest to the Services or any associated intellectual property rights in any of the foregoing. Customer agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Customer through the Services.

4.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, third party applications, general enhancements) available to Customer at no charge as they are released generally to its customers as part of the Services. Customer agrees to receive those updates automatically as part of the Services. Kronos also may offer new products and/or services to Customer at an additional charge. Customer shall have the option of purchasing such new products and/or services under a separate Order Form or in accordance with Section 17.9 below.

4.5 Kronos reserves the right to change the Services, in whole or in part, including but not limited to, the Internet based services, technical support options, and other Services-related policies. Customer's continued use of the Services after Kronos posts or otherwise notifies Customer of any changes indicates Customer's agreement to those changes.

4.6 Benefits Center. If Customer has purchased the Benefits Center offering as indicated on an Order Form, the terms and conditions located at <https://www.kronos.com/benefits-center-terms-and-conditions> will apply. The Benefits Center offering is only available within the United States.

5. ACCEPTABLE USE

5.1 Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Agreement.

5.2 Customer represents and warrants to Kronos that Customer has the right to publish and disclose the Customer Content in connection with the Services. Customer represents and warrants to Kronos that the Customer Content: (a) does not infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) is not abusive, profane, or offensive to a reasonable person, or, (c) is not hateful or threatening.

5.3 Customer will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (f) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

6. CONNECTIVITY AND ACCESS

Customer acknowledges that Customer shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Kronos and Kronos' representatives with such physical or remote access to Customer's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Agreement. Customer will make all necessary arrangements as may be required to provide access to Customer's computer and network environment if necessary for Kronos to perform its obligations under the Agreement. Kronos is hereby (i) granted access to such Customer data to perform its obligations under the Agreement and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage.

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation. Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Customer during the discovery portion of the implementation. Customer shall provide Kronos with necessary configuration-

related information in a timely manner to ensure that mutually agreed implementation schedules are met. Kronos and Customer's implementation responsibilities are described more specifically in the Services Implementation Guideline set forth at: <http://www.kronos.com/products/workforce-ready/implementation-guidelines.aspx>

7.2 Standard Support. Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos Customer Portal.

7.3 Equipment Support. If Equipment is rented in accordance with Section 9.1 below or if Equipment Support Services are purchased for Equipment purchased in accordance with Section 9.2 below, Kronos will provide the following Depot Exchange Support Services to Customer:

(a) Upon the failure of installed Equipment, Customer shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Customer is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Customer must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and are subject to change. Return and repair procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies.

(b) Kronos will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Equipment will be shipped the same day, for delivery to Customer's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED. Customer shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Customer, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

(c) Equipment support also includes Customer access to Equipment service packs via the Kronos Customer Portal.

7.4 Educational Materials and Content. Customer will have access to certain educational materials and content (the "Educational Content") within the Services. Customer recognizes and agrees that the Educational Content is copyrighted by Kronos. Customer is permitted to make copies of the Educational Content provided in *pdf form solely for Customer's internal training purposes and may not disclose such Educational Content to any third party other than Customer's employees. Customer may not edit, modify, revise, amend, change, alter, customize or vary the Educational Content without the written consent of Kronos, provided that Customer may download and modify contents of Training Kits solely for Customer's internal use.

7.5 Technical Account Manager. Customers purchasing a Kronos Technical Account Manager ("TAM") as indicated on the Order Form shall receive the services of a dedicated, but not exclusive, TAM for one production instance of the Software. Customer will designate up to two primary and three secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM. Upon request, Customer may designate a reasonable number of additional and/or backup Technical Contacts. Customer is required to place all primary Technical Contacts through Kronos training for the Applications covered under this Agreement at Customer's expense.

8. CUSTOMER CONTENT

Customer shall own all Customer Content. Kronos acknowledges that all of the Customer Content is deemed to be the Confidential Information of Customer. Notwithstanding the foregoing, Customer grants Kronos permission to combine Customer's business data with that of other customers in a manner that does not identify the Customer or any individual in order to evaluate and improve the services Kronos offers to customers. In addition, Kronos may, but shall have no obligation to, monitor Customer Content from time to time to ensure compliance with the Agreement and applicable law.

9. EQUIPMENT

If Customer purchases or rents Equipment from Kronos, a description of such Equipment (model and quantity), the applicable pricing, and delivery terms shall be listed on the Order Form.

9.1 *Rented Equipment.* The following terms apply only to Equipment Customer rents from Kronos:

- (a) **Rental Term and Warranty Period.** The term of the Equipment rental and the “Warranty Period” for such Equipment shall run coterminously with the Term of the other Services provided under the Agreement.
- (b) **Insurance.** Customer shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the Equipment to Customer shall relieve Customer from Customer’s obligations under the Agreement.
- (c) **Location/Replacement.** Customer shall not make any alterations or remove the Equipment from the place of original installation without Kronos’ prior written consent. Kronos shall have the right to enter Customer’s premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Customer, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.
- (d) **Ownership.** All Equipment shall remain the property of Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment’s attachment to other equipment or real property. Customer shall not sell or otherwise encumber the Equipment. Customer shall furnish any assurances, written or otherwise, reasonably requested by Kronos to give full effect to the intent of terms of this paragraph (d).
- (e) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in Section 7.
- (f) **Return of Equipment.** Upon termination of the Agreement or the applicable Order Form, Customer shall return, within thirty (30) days of the effective date of termination and at Customer’s expense, the Equipment subject to this Section 9.1. Equipment will be returned to Kronos in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from Kronos, Customer shall pay Kronos the then list price of the unreturned Equipment.

9.2 *Purchased Equipment.* The following terms apply only to Equipment Customer purchases from Kronos:

- (a) **Ownership and Warranty Period.** Title to the Equipment shall pass to Customer upon delivery to the carrier. The “Warranty Period” for the Equipment shall be for a period of 90 days from such delivery (unless otherwise required by law).
- (b) **Equipment Support.** Kronos shall provide to Customer the Equipment support services described in this Agreement if purchased separately by Customer as indicated on the applicable Order Form. If purchased, Equipment support services have a term of one (1) year commencing upon expiration of the Warranty Period. Equipment support services will be automatically extended for additional one year terms on the anniversary of its commencement date (“Renewal Date”), unless either party has given the other thirty (30) days written notification of its intent not to renew. Kronos may change the annual support charges for Equipment support services effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification.

9.3 *Equipment with Finger Scan Sensor Technology.* The following terms apply only to any Equipment with finger scan sensor technology purchased by Customer from Kronos or a Kronos reseller (“Finger Scan Equipment”):

- (a) To the extent that any biometric privacy laws may apply to Customer’s use of the Finger Scan Equipment, Customer warrants that they will comply with any such laws prior to commencing use of the Finger Scan Equipment and will remain in compliance at all times. Customer further warrants that, if required by law, prior to such use it will (i) obtain signed releases from employees consenting to the use of the Finger Scan Equipment for employee timekeeping purposes and (ii) issue policies made available to their employees and the public regarding its retention and destruction of the Finger Scan data. Customer further warrants that it will ensure that any releases, consents, or policies, as required by applicable law, will by their terms expressly apply to Kronos and its authorized subcontractors.
- (b) Customer agrees to defend, hold harmless and indemnify Kronos, its employees, directors, parent, subsidiaries and authorized partners and subcontractors (collectively, “Kronos Indemnitees”) for any claims, damages, penalties or fines asserted or awarded against a Kronos Indemnitee arising out of or relating to Customer’s breach of any of the foregoing warranties in section 9.3(a) above. Upon receipt of notice of such a claim, Customer shall assume sole control of the defense and settlement of such claim; provided that

(i) Kronos will be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim, on a monitoring and a non-controlling basis; (ii) Customer shall not settle any claim on any terms or in any manner that adversely affects the rights of Kronos without its prior written consent; and (iii) Kronos will provide reasonable cooperation and assistance at Customer's sole cost and expense.

10. SERVICE LEVEL AGREEMENT

Kronos shall: (a) provide basic support for the Services at no additional charge, (b) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (i) planned downtime in accordance with Kronos' standard maintenance windows, or (ii) any unavailability caused by circumstances beyond Kronos' reasonable control, including without limitation, acts of nature, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Kronos employees), internet service provider failures or delays, or denial of service attacks, and (c) provide Services in accordance with applicable laws and government regulations.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

11.1 Kronos represents and warrants to Customer that the Services, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.

11.2 Kronos' sole obligation and Customer's sole and exclusive remedy for any breach of the foregoing warranty is limited to Kronos' reasonable commercial efforts to correct the non-conforming Services at no additional charge to Customer. In the event that Kronos is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Kronos' commercially reasonable efforts to do so, Customer shall be entitled to terminate the then remaining Term of the Agreement as Customer's sole and exclusive remedy. Kronos' obligations hereunder for breach of warranty are conditioned upon Customer notifying Kronos of the material breach in writing, and providing Kronos with sufficient evidence of such non-conformity to enable Kronos to reproduce or verify the same.

11.3 Kronos warrants to Customer that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Customer's sole and exclusive remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Customer's use, installation and maintenance thereof have conformed to the Documentation for such Equipment. This warranty is extended to Customer only and shall not apply to any Equipment (or parts thereof) in the event of:

- (a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including without limitation modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;
- (b) failure of Customer to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or
- (c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, KRONOS HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, KRONOS MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12. DATA SECURITY AND PRIVACY

12.1 As part of the Services, Kronos shall provide administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer data. Customer acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Customer should consider any particular Kronos supplied security-related safeguard as

just one tool to be used as part of Customer's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Agreement.

12.2 As between Customer and Kronos, all Personally Identifiable Data is Customer's Confidential Information and will remain the property of Customer. Customer represents that to the best of Customer's knowledge such Personally Identifiable Data supplied to Kronos is accurate. Customer hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Kronos to carry out Kronos' duties and responsibilities under the Agreement or as required by law.

12.3 Prior to initiation of the Services under the Agreement and on an ongoing basis thereafter, Customer agrees to provide notice to Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Kronos as a result of provision of the Services. Customer will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or Kronos' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

12.4 Kronos will notify Customer in accordance with applicable laws upon becoming aware of an unauthorized access of Customer Content.

12.5 Customer agrees that Kronos may use sub-processors to fulfill its contractual obligations under the Agreement. The list of sub-processors that are engaged by Kronos to carry out processing activities on Customer Content on behalf of Customer can be found at: <https://www.kronos.com/products/workforce-ready/subprocessors>

13. INDEMNIFICATION

13.1 Kronos shall defend Customer and its respective directors, officers, and employees (collectively, the "**Customer Indemnified Parties**"), from and against any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party (each a "**Claim**") alleging that the permitted uses of the Services infringe or misappropriate any United States or Canadian copyright or patent and will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claim by a court of applicable jurisdiction or as a result of Kronos' settlement of such a Claim. In the event that a final injunction is obtained against Customer's use of the Services by reason of infringement or misappropriation of such copyright or patent, or if in Kronos' opinion, the Services are likely to become the subject of a successful claim of such infringement or misappropriation, Kronos, at Kronos' option and expense, will use commercially reasonable efforts to (a) procure for Customer the right to continue using the Services as provided in the Agreement, (b) replace or modify the Services so that the Services become non-infringing but remain substantively similar to the affected Services, and if neither (a) or (b) is commercially feasible, to (c) terminate the Agreement and the rights granted hereunder after provision of a refund to Customer of the Monthly Service Fees paid by Customer for the infringing elements of the Services covering the period of their unavailability.

13.2 Kronos shall have no liability to indemnify or defend Customer to the extent the alleged infringement is based on: (a) a modification of the Services by anyone other than Kronos; (b) use of the Services other than in accordance with the Documentation for such Service or as authorized by the Agreement; (c) use of the Services in conjunction with any data, equipment, service or software not provided by Kronos, where the Services would not otherwise itself be infringing or the subject of the claim; or (d) use of the Services by Customer other than in accordance with the terms of the Agreement. Notwithstanding the foregoing, with regard to infringement claims based upon software created or provided by a licensor to Kronos or Suppliers, Kronos' maximum liability will be to assign to Customer Kronos' or Supplier's recovery rights with respect to such infringement claims, provided that Kronos or Kronos' Supplier shall use commercially reasonable efforts at Customer's cost to assist Customer in seeking such recovery from such licensor.

13.3 To the extent allowed by law, Customer shall defend Kronos, its Suppliers and their respective directors, officers, employees, agents and independent contractors (collectively, the "**Kronos Indemnified Parties**") harmless, from and against any and all Claims alleging that: (a) employment-related claims arising out of Customer's configuration of the Services; (b) Customer's modification or combination of the Services with other services, software or equipment not furnished by Kronos, provided that such Customer modification or combination is the cause of such infringement and was not authorized by Kronos; or, (c) a claim that the

Customer Content infringes in any manner any intellectual property right of any third party, or any of the Customer Content contains any material or information that is obscene, defamatory, libelous, or slanderous violates any person's right of publicity, privacy or personality, or has otherwise caused or resulted in any tort, injury, damage or harm to any other person. Customer will have sole control of the defense of any such action and all negotiations for its settlement or compromise. Kronos will cooperate fully at Customer's expense with Customer in the defense, settlement or compromise of any such action. Customer will indemnify and hold harmless the Kronos Indemnified Parties against any liabilities, obligations, costs or expenses (including without limitation reasonable attorneys' fees) actually awarded to a third party as a result of such Claims by a court of applicable jurisdiction or as a result of Customer's settlement of such a Claim.

13.4 The Indemnified Party(ies) shall provide written notice to the indemnifying party promptly after receiving notice of such Claim. If the defense of such Claim is materially prejudiced by a delay in providing such notice, the purported indemnifying party shall be relieved from providing such indemnity to the extent of the delay's impact on the defense. The indemnifying party shall have sole control of the defense of any indemnified Claim and all negotiations for its settlement or compromise, provided that such indemnifying party shall not enter into any settlement which imposes any obligations or restrictions on the applicable Indemnified Parties without the prior written consent of the other party. The Indemnified Parties shall cooperate fully, at the indemnifying party's request and expense, with the indemnifying party in the defense, settlement or compromise of any such action. The indemnified party may retain its own counsel at its own expense, subject to the indemnifying party's rights above.

14. LIMITATION OF LIABILITY

14.1 EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY DAMAGES OR INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

14.2 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 13 ABOVE, THE TOTAL AGGREGATE LIABILITY OF KRONOS OR KRONOS' SUPPLIERS TO CUSTOMER AND/OR ANY THIRD PARTY IN CONNECTION WITH THE AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CUSTOMER, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY KRONOS FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.

14.3 EXCEPT FOR KRONOS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 13 ABOVE, IN NO EVENT SHALL KRONOS OR KRONOS' SUPPLIERS, THEIR RESPECTIVE AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THE AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT OR OTHERWISE, AND REGARDLESS OF WHETHER KRONOS OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.

14.4 EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING WITHOUT LIMITATION LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING WITHOUT LIMITATION VIRUSES, TROJAN HORSES, AND WORMS), CUSTOMER'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SAAS APPLICATIONS OR SYSTEMS, OR MACHINE ERROR.

15. CONFIDENTIAL INFORMATION

15.1 Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its

own information of similar character that it does not wish disclosed to the public. Neither Party shall disclose to third parties the other Party's Confidential Information, or use it for any purpose not explicitly authorized herein, without the prior written consent of the other Party. The obligation of confidentiality shall survive for five (5) years after the return of such Confidential Information to the disclosing party or five (5) years after the expiration or termination of the Agreement, whichever is later, as applicable.

15.2 Notwithstanding the foregoing, a party may disclose Confidential Information to the extent required: (a) to any subsidiary or affiliate of such Party, or (b) to any consultants, contractors, and counsel who have a need to know in connection with the Agreement and have executed a non-disclosure agreement with obligations at least as stringent as this Section 15, or (c) by law, or by a court or governmental agency, or if necessary in any proceeding to establish rights or obligations under the Agreement; provided, the receiving party shall, unless legally prohibited, provide the disclosing party with reasonable prior written notice sufficient to permit the disclosing party an opportunity to contest such disclosure. If a party commits, or threatens to commit, a breach of this Section 15, the other party shall have the right to seek injunctive relief from a court of competent jurisdiction.

15.3 This Agreement imposes no obligation upon either Party with respect to the other Party's Confidential Information which the receiving Party can establish: (a) is or becomes generally known through no breach of the Agreement by the receiving party, or (b) is already known or is independently developed by the receiving party without use of or reference to the Confidential Information.

16. EXPORT

Customer understands that any export of the Equipment may require an export license and Customer assumes full responsibility for obtaining such license. Customer must obtain Kronos' prior written consent before exporting the Equipment.

17. GENERAL

17.1 This Agreement shall be governed by and construed in accordance with the laws of the state, province and country in which Kronos is incorporated without regard to any conflict of law provisions. The parties waive the application of the United Nations Commission on International Trade Law and United Nations Convention on Contracts for the International Sale of Goods as to the interpretation or enforcement of the Agreement and waive and "opt out" of the Uniform Computer Information Transactions Act (UCITA), or such other similar law.

17.2 The invalidity or illegality of any provision of the Agreement shall not affect the validity of any other provision. The parties intend for the remaining unaffected provisions to remain in full force and effect.

17.3 Customer shall not assign the Agreement or the rights to use the Services without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.

17.4 Neither Party shall be responsible for any failure to perform or delay in performing any of its obligations under this Agreement (other than a failure to comply with payment obligations) where and to the extent that such failure or delay results from an unforeseeable event beyond a party's reasonable control, including but not limited to, acts of war; acts of nature; earthquake; flood; embargo; riot; sabotage; labor shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to timely place orders therefor, or lack of or delay in transportation (each a "Force Majeure Event").

17.5 All notices given under the Agreement shall be in writing and sent postage pre-paid, if to Kronos, to the Kronos address on the Order Form, or if to Customer, to the billing address on the Order Form.

17.6 No action regardless of form, may be brought by either party more than two (2) years after the cause of action has arisen.

17.7 The section headings herein are provided for convenience only and have no substantive effect on the construction of the Agreement.

17.8 The parties agree that if the Agreement is accepted by the parties and that acceptance is delivered via fax or electronically delivered via email or the internet it shall constitute a valid and enforceable agreement.

17.9 Use of the Service includes the ability to enter into agreements and/or to make transactions electronically. CUSTOMER ACKNOWLEDGES THAT WHEN IT INDICATES ACCEPTANCE OF AN AGREEMENT AND/OR TRANSACTION ELECTRONICALLY, THAT ACCEPTANCE WILL CONSTITUTE ITS LEGAL AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH

AGREEMENTS AND TRANSACTIONS. THIS ACKNOWLEDGEMENT THAT CUSTOMER INTENDS TO BE BOUND BY SUCH ELECTRONIC ACCEPTANCE APPLIES TO ALL AGREEMENTS AND TRANSACTIONS CUSTOMER ENTERS INTO THROUGH THE SERVICE, SUCH AS ORDERS, CONTRACTS, STATEMENTS OF WORK, AND NOTICES OF CANCELLATION.

17.10 No third party beneficiaries exist under this Agreement.

17.11 This Agreement and any information expressly incorporated by reference herein, together with the applicable Order Form, constitute the entire agreement between the parties for the Services described herein and supersede all prior or contemporaneous representations, negotiations, or other communications between the parties relating to the subject matter of this Agreement. This Agreement may be amended only in writing signed by authorized representatives of both parties. Customer understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general Service or product development direction, potential future Services, products or product enhancements under consideration, Customer is not entitled to any Services, products or product enhancements other than those contained on the Order Form. Customer has not relied on the availability of any future version of the Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing the Agreement.

City of Pharr	Kronos SaaShr, Inc.
Dated:	Dated:
By:	By:
Name:	Name:
Title:	Title:



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.E.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Jose Pena, IT Director

DEPARTMENT: IT

DIRECTOR: Jose Pena

Agenda Item: Consideration and action, if any, on entering into an enterprise agreement with Charter Communications Operating, LLC "Spectrum" for City, high definition public access channel.(Project # 1920-01-518-S039-001)

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Spectrum is no longer supporting free government and education channels on their platform and are transitioning agencies to enterprise accounts going forward. This is needed due to our channel going offline and only is the only way to restore services. This will include upgrading our channel to high definition as opposed to standard and be able to provide a better high quality service the public sees on all other channels.

Financial Consideration: \$750.00 monthly and one time \$5,350.00 construction and installation cost.

Staff Recommendation: Staff recommends approval of agreement with Spectrum.

Alternatives:

ROUTING:

Jose Pena
Ignacio Amezcua
Anali Alanis
Patricia Rigney
Karla Moya
City Management Office

Created/Initiated - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
New -

Customer Service Order



THIS SERVICE ORDER ("Service Order"), is executed and effective upon the date of the signature set forth in the signature block below ("Effective Date") and is by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") and Customer (as shown below) and is governed by and subject to the Spectrum Enterprise Commercial Terms of Service posted to the Spectrum Enterprise website, <https://enterprise.spectrum.com/> (or successor url) or, if applicable, an existing services agreement mutually executed by the parties (each, as appropriate, a "Service Agreement"). Except as specifically modified herein, all other terms and conditions of the Service Agreement shall remain unamended and in full force and effect.

Account Executive: Charlie Pumarejo

Phone: 2105829005 ext:

Cell Phone: +1 2106017862

Email: charlie.pumarejo@charter.com

Order # 11867459

Customer Information: Customer Code		
Business Name	MASTER ACCOUNT CITY OF PHARR (HQ)	Customer Type:
Billing Address		
Attention To:		Account Number
118 S CAGE BLVD, PHARR, TX 78577		
Billing Contact	Billing Contact Phone	Billing Contact Email Address
Jose Pena	(956) 402-4900	jose.pena@pharr-tx.gov
Authorized Contact	Authorized Contact Phone	Authorized Contact Email Address
Jose Pena	(956) 402-4900	jose.pena@pharr-tx.gov
Technical Contact	Technical Contact Phone	Technical Contact Email Address
Rick Castro	(956) 402-4900	rick.castro@pharr-tx.gov

New and Revised Services and Monthly Charges At 3001 N Veterans Blvd , Pharr TX 78577				
Description	Quantity	Sales Price	Monthly Recurring Total	Contract Term
Ethernet EVPL HUB	1	\$0.00	\$0.00	36 Months
EVPL Intrastate 20 Mbps	1	\$375.00	\$375.00	36 Months
*Total			\$375.00	
*Prices do not include taxes and fees.				

New and Revised Services and Monthly Charges At 118 S Cage Blvd , Pharr TX 78577				
Description	Quantity	Sales Price	Monthly Recurring Total	Contract Term
Ethernet Spoke	1	\$0.00	\$0.00	36 Months
EVPL Intrastate 20 Mbps	1	\$375.00	\$375.00	36 Months
*Total			\$375.00	
*Prices do not include taxes and fees.				

One Time fees At 118 S Cage Blvd , Pharr TX 78577			
Description	Quantity	Sales Price	Total
Installation/Construction	1	\$5,350.00	\$5,350.00
Total			\$5,350.00
*Prices do not include taxes and fees.			

One Time fees At 3001 N Veterans Blvd , Pharr TX 78577			
Description	Quantity	Sales Price	Total
Installation	1	\$0.00	\$0.00
Total			\$0.00
*Prices do not include taxes and fees.			

Special Terms**Electronic Signature Disclosure**

By signing and accepting below you are acknowledging that you have read and agree to the terms and conditions outlined in this document.

Authorized Signature for Customer

Printed Name and Title

Date Signed



COMMERCIAL TERMS OF SERVICE

These Terms of Service include all Attachments hereto ("Attachment(s)"), and all other documents identified hereunder, each of which are incorporated herein by reference. The Attachments further describe Spectrum's services (each a "Service" or collectively the "Services") and set forth additional terms and conditions for the applicable Service. Spectrum and Customer may each be referred to as a "Party" or collectively as the "Parties." Unless specifically set forth in any Attachment, capitalized terms shall have the meanings set forth in this Service Agreement.

GENERAL

1. SERVICE AGREEMENT TERM. The Service Agreement shall be effective upon the earlier to occur of (a) the latest date of the signatures of the Parties; or (b) Spectrum's commencement of performance (the "Effective Date"). The Service Agreement shall remain in effect until the expiration or proper termination of the final existing Service Order entered into under this Service Agreement (the "Term").

2. SERVICES. Customer shall request Services hereunder by submitting orders in a manner required by Spectrum. All submitted Service Orders are subject to approval and acceptance by Spectrum. Upon Spectrum's acceptance of a Service Order, as indicated either by: (a) Spectrum's written acceptance, (b) by Spectrum's delivery of the Services, or (c) commencement of installation, such Service Order shall be deemed incorporated into the Service Agreement. Spectrum shall provide the Services to Customer at the Service address(es) specified in the applicable Service Order ("Service Location(s)").

3. ORDER TERM. The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). If no Initial Order Term is specified in a Service Order, the Initial Order Term is twelve (12) months from the Billing Start Date. Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

4. AVAILABILITY OF FACILITIES. Customer understands that certain Services, or certain features, may not be available in all Spectrum service areas, may change from time to time and Spectrum may decline to provide any requested Services. Spectrum's ability to provide Services depends upon its ability to secure and retain, without unreasonable expense, suitable facilities, and rights to construct and maintain necessary facilities such as pole attachments and conduits to serve the Service Location. Spectrum may decline to accept or terminate a Service Order upon notice to Customer because of (a) the lack of transmission medium, transmission capacity or any other facilities or equipment, (b) the lack of available services from or interconnection with the services or facilities of other providers, or (c) any other cause beyond Spectrum's control.

5. SERVICE LOCATION ACCESS AND INSTALLATION.

(a) Access. Spectrum requires reasonable access to each Service Location at any time throughout the Term as necessary for Spectrum to provide the Services and to review, install, inspect, maintain, repair, or remove any Spectrum-provided cabling, modems, related splitters, routers or other equipment ("Spectrum Equipment") used to provide the Services. If Customer owns or controls the Service Location(s), Customer hereby grants Spectrum permission to enter the Service Location(s) in order for Spectrum to fulfill its obligations and exercise its rights under the Service Agreement. If a Service Location is not owned or controlled by Customer, Customer will obtain, with Spectrum's reasonable assistance, appropriate right of access. If such right of access for Spectrum is not obtained by either Party, then Spectrum may decline Customer's request for Services, or terminate or amend the affected Service Order with respect to the Service Location that Spectrum cannot access, without any liability to Customer.

(b) Installation Review. Spectrum may perform an installation review of each Service Location prior to installation of the Services to determine serviceability or the need to extend Spectrum's facilities, fiber optic cable, electronics, or other equipment (collectively, the "Network") to provide the Services at the Service Location. If during the installation review, Spectrum determines that additional work is required to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges (as defined below) in excess of the amounts previously specified in a quote or Service Order. Upon request, Customer shall provide Spectrum with accurate site and/or physical

network diagrams or maps of a Service Location, including electrical and other utility service maps, prior to the installation review.

(c) Site Preparation. Customer shall be responsible for necessary preparations at the Service Location(s) for delivery and installation of Spectrum Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture, and furnishings as necessary to access the Spectrum Equipment or Services. In addition, Customer shall provide Spectrum with floor space, rack space, other space, and clean power as is reasonably necessary for the installation and operation of Spectrum Equipment at the Service Location(s). Customer shall not charge Spectrum, and shall ensure that Spectrum does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this section; and any such fees or expenses charged by any other end user accessing or using the Services ("End User") shall be borne solely by Customer. Any failure or refusal by Customer to be ready to receive Services does not release Customer from its obligation to pay Service Charges for any Service that is otherwise available for Customer's use.

(d) Installation. Spectrum will schedule one or more installation visits with Customer. At the Customer's request, Spectrum may perform installation or maintenance on weekends or times other than during normal business hours; provided, however, Customer may be assessed reasonable, additional Service Charges based on Spectrum's actual incurred labor, material or other costs for such non-routine installation or maintenance. Customer's authorized representative must be present during installation.

If Spectrum is unable to install the Service as a result of (i) Customer's (or any End User's) failure to deliver any required materials, support or information to Spectrum; (ii) Customer's (or any End User's) failure to provide access to a Service Location; or (iii) Spectrum not being able to obtain access to equipment at the Service Location as necessary for installation of the Service, then Customer shall pay Spectrum a Service Charge at Spectrum's then prevailing rates for any installation trip made by Spectrum and an additional Service Charge for each subsequent trip necessary to perform the Service installation. In addition, if Spectrum's installation of the Service is delayed as a result of Customer's actions or inactions as set forth above or if Customer is otherwise refusing or not ready to receive Services, then Spectrum will notify Customer that Spectrum is ready to finalize installation of the Services (the "Ready Notice") and may begin invoicing Service Charges as set forth in Section 7 upon the earlier of the Billing Start Date or sixty (60) days after the date of the Ready Notice.

If during the course of installation Spectrum determines additional work is necessary to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges in excess of the amounts previously specified in a quote or Service Order. If Customer does not agree to pay such Service Charges by executing a revised Service Order within five (5) business days of receiving the same, Customer and Spectrum shall each have the right to terminate the applicable Service Order. Spectrum may act as Customer's agent for ordering access connection facilities provided by other providers or entitles when authorized by Customer to allow connection of a Service Location to the Network.

Customer shall perform interconnection of the Services and Spectrum Equipment with any Customer- provided or End User equipment (collectively, "Customer Equipment"), unless otherwise set forth in an Attachment or agreed in writing between the Parties, and shall conform its Customer Equipment and software, and ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by Spectrum.

Spectrum shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation and for those damages directly caused by Spectrum's faulty workmanship or installation of the Service, provided that the boring of holes or insertion of fasteners through the surface of walls for attachment of peripheral equipment will not be deemed damages but rather part of normal workmanship. If the installation and maintenance of Services at the Service Locations is or becomes, in Spectrum's sole opinion, hazardous or dangerous to Spectrum's employees or Network, the public, or property, including without limitation due to the presence of asbestos or other hazardous materials, Spectrum may refuse to install and maintain such Service or stop providing Services until such time as the condition is remedied or an alternative Service Location is designated that is not hazardous or dangerous. Customer shall bear any additional costs incurred by Spectrum arising from any such hazardous or dangerous conditions.

6. EQUIPMENT.

Equipment Responsibilities and Safeguards.

(a) Spectrum shall use commercially reasonable efforts to maintain and secure the Spectrum Equipment used by Spectrum to provide Services to Customer. Except as otherwise provided in this Service Agreement or any Service Order(s), Customer shall be responsible for the maintenance or repair of any cable, electronics, structures, equipment, or materials owned or provided by Customer. Customer shall not, and shall not cause any third party to, move, modify, disturb, alter, remove, relocate to another Service Location, install software not provided by Spectrum, or otherwise tamper with any portion of the Spectrum Equipment without the prior consent of Spectrum. Customer shall be responsible for loss or damage

to the Spectrum Equipment while at Customer's or an End User's facilities. Customer shall also ensure that all Spectrum Equipment at Customer's and End Users' Service Location(s) remains free and clear of all liens and encumbrances.

(b) Customer Security Responsibilities. Customer shall be responsible for all access to and use of the Service, including whether or not Customer has knowledge of or authorizes such access or use. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service Location, Service, and Spectrum Equipment. Customer shall secure and maintain any and all Customer Equipment, including, but not limited to, Private Branch Exchanges (including other non-Spectrum switches, collectively, "PBXs"), where applicable, and any applications accessible through use of Customer Equipment, and shall be solely responsible for any conduct through and any charges incurred on Customer's Service account, regardless of whether such activity or charges are authorized by Customer management or involve fraudulent activity until such time as Customer informs Spectrum of any fraudulent or unauthorized access. Without limiting Customer's responsibilities, Spectrum has the right to implement reasonable measures to track, manage, and secure the connection between any Customer Equipment or applications used by Customer, End Users, or any third party who accesses the Customer Equipment and the Spectrum Network, including without limitation authentication or other security access procedures. Spectrum may suspend any affected Services if Spectrum discovers or becomes aware of any breach or compromise of the security of any Customer Equipment, Service, Service Location, Spectrum Equipment, or connection to the Spectrum Network.

(c) Equipment Return, Retrieval, Repair, and Replacement. Immediately upon termination of this Service Agreement or Service Order(s) ("**Termination**"): (i) at the discretion of Spectrum, Customer shall return, or allow Spectrum to retrieve, the Spectrum Equipment in the condition in which the Spectrum Equipment was received, subject to ordinary wear and tear; and (ii) promptly cease all use of and return, if applicable, to Spectrum any software or software services provided by Spectrum ("**Software**").

Failure of Customer to return or allow Spectrum to retrieve the Spectrum Equipment within fifteen (15) days after Services are terminated will result in a charge to Customer's account equal to either Spectrum's applicable unreturned equipment charge or the retail cost of replacement of the unreturned Spectrum Equipment. If applicable, Customer shall pay for the repair or replacement of any damaged Spectrum Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material or workmanship defects, together with any costs incurred by Spectrum in obtaining or attempting to regain possession of Spectrum Equipment.

7. STANDARD PAYMENT TERMS. Customer shall pay recurring and non-recurring charges, taxes, and fees for the Services in the amount specified on the Service Order and other applicable charges as described in this Service Agreement (collectively, "**Service Charges**").

(a) Charges. Spectrum invoices for monthly recurring charges specific to the Service(s) ("**MRCs**"), plus applicable taxes, fees, and surcharges, in advance on a monthly basis. Spectrum invoices for non-recurring, one-time charges ("**OTCs**") for construction or installation charges after the Billing Start Date or as specified in the Service Order. All other charges, including usage-based charges (e.g., phone usage, pay-per view charges), will be invoiced monthly in arrears. Service Charges are payable within thirty (30) days after the date appearing on the invoice. If Spectrum fails to present a Service Charge in a timely manner, such failure shall not constitute a waiver of the charges for the Services to which it relates, and Customer shall be responsible for and pay such Service Charges when invoiced in accordance with these payment terms. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer.

(b) Taxes, Surcharges, and Fees. Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable federal, state, and local sales, use, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation. Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges). Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled

under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes, and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

(c) Change Requests. Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

(d) Site Visits and Repairs. If Spectrum visits a Service Location to either inspect the Services or respond to a service request, and Spectrum reasonably determines that the cause of the service issue is not due to a problem arising from Spectrum's Network or Spectrum Equipment, but rather is due to Customer misuse, abuse, or modification of the Services, Customer Equipment or facilities, or due to similar acts by a third party not under Spectrum's control or direction, then Spectrum may invoice Customer at Spectrum's then-prevailing commercial rates for an on-site visit, plus any charges for Spectrum Equipment repair or replacement as a result of Customer or third party damage that may be necessary.

(e) Invoicing Disputes; Late and Collection Fees. Customer must provide notice to Spectrum of any disputed charges within sixty (60) days of the invoice date on which the disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged. Undisputed amounts not paid within thirty (30) days of the invoice date shall be past due and subject to a late fee up to the lesser of 1.5% of the MRC per month or the maximum amount permitted by law. If Services are suspended due to late payment, Spectrum may require that Customer pay all past due charges, a reconnect fee, and one or more MRCs in advance before reconnecting Services. Spectrum may charge a reasonable service fee for all returned checks and bankcard, credit card or other charge card charge-backs. Customer shall be responsible for all expenses, including reasonable attorney fees and collection costs, incurred by Spectrum in collecting any unpaid amounts due under this Service Agreement.

(f) Credit Verification. Spectrum shall have the right to verify Customer's credit standing at any time.

(g) Bundled Pricing. If Customer has selected a bundled offer, meaning a discounted MRC for receiving more than one Spectrum Service ("Bundle"), then the following conditions shall apply:

- i. In consideration for Customer's purchase of all Services in the Bundle, and only with respect to that period of time during which Customer continues to purchase the specific Services in such Bundle and during which such Bundle is in effect, the correlating discount to the Services in such Bundle, ordered pursuant to the Spectrum program governing such Bundle, will be reflected in the MRC for the respective Services.
- ii. Upon Termination by Customer, for any reason other than a Spectrum Default, of any Service component of the applicable Bundle, the pricing for the remaining Service(s) shall revert to Spectrum's unbundled pricing for such Service(s) in effect at the time of Termination. Termination liability applicable to the Services under this Service Agreement shall otherwise remain unchanged.

8. ADMINISTRATIVE WEB SITE. Spectrum may, at its sole option, make one or more administrative web sites, including without limitation www.spectrum.net, available to Customer in connection with Customer's use of the Services (each an "Administrative Web Site"). Spectrum may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Web Site and Customer must promptly change any Spectrum-provided user identifications and passwords to a secure, Customer-designated user identification and password. Customer shall be responsible for the confidentiality and use of such user identifications and passwords, whether provided by Spectrum or designated by Customer, and any equipment or devices used to access any Administrative Web Site, and shall immediately notify Spectrum if there has been an unauthorized release, use, or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Web Site. Customer shall be solely responsible for all use of the

Administrative Web Site. Spectrum shall not be liable for any loss, cost, expense, or other liability arising out of any Customer use of the Administrative Web Site. Spectrum may change or discontinue the Administrative Web Site, or Customer's right to use the Administrative Web Site, at any time. Any additional terms and policies applicable to Customer's use of the Administrative Web Site will be posted on the site.

9. SUPPORT. Spectrum shall provide contact information for inquiries and remote problem support for the Services. All such Customer support shall be provided only to Customer's designated personnel or as mutually agreed upon by Spectrum and Customer. Customer is responsible for all communications and support for its End Users. Customer shall provide routine operational support for Spectrum Equipment located at a Service Location, including without limitation, by performing reboots as requested by Spectrum. Customer is responsible for the installation, repair, and use of Customer Equipment, including without limitation, Customer-supplied third-party hardware, or software for the use of Spectrum Service or third party services.

Spectrum does not support third-party hardware or software used in conjunction with third-party services or supplied by Customer. Any questions concerning third-party hardware or software should be directed to the provider of that product. Spectrum assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third-party software, or any Customer Equipment or Customer-supplied software with the Services. If such third-party equipment or software impairs the Services, Customer shall continue to pay all applicable Service Charges. If, at Customer's request, Spectrum should attempt to resolve difficulties caused by such third-party equipment or software, such efforts shall be performed at Spectrum's discretion and subject to Service Charges as set forth in Section 7(d).

10. CUSTOMER REPRESENTATIONS AND OBLIGATIONS

(a) **Representations.** Customer represents and warrants to Spectrum that: (i) Customer has the authority to execute, deliver and carry out the terms of this Service Agreement, and (ii) its End Users and any person who accesses any Services at the Service Location, will use the Service and Network for Customer's internal business purposes and will comply with the terms of this Service Agreement.

(b) **No Reselling.** Customer shall not re-sell or re-distribute (whether for a fee or otherwise) access to the Service(s) or system capacity, or any part thereof, in any manner other than for Customer's internal business without the express prior consent of Spectrum, including without limitation, any use to provide services for the benefit of, or on behalf of, any third party other than Customer or its End Users.

(c) **No Illegal Purpose or Unauthorized Access.** Customer shall not use or permit End Users or third parties to use the Service(s), including the Spectrum Equipment and Software, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material.

(d) **No Interference.** Customer shall not interfere with or cause technical difficulties for other customers' use of equipment or Services or interfere with or disrupt the Spectrum Network, backbone, nodes or any other Services, facilities or third-party providers. Customer shall not install any equipment, including without limitation, any antenna or signal amplification system, at the Service Location that interferes with the Services.

(e) **Applicable Laws.** With respect to Customer's and End Users' use of the Service (including the transmission or use of any content via the Service), Customer shall comply, and shall ensure that its End Users comply, with all applicable laws and regulations in addition to the terms of this Service Agreement. Spectrum shall have the right to audit Customer's use of the Service remotely or otherwise, to ensure compliance with this Service Agreement.

(f) **Acceptable Use.** As between the Parties, Customer is solely responsible for (i) all use (whether or not authorized) of the Service by Customer, any End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Service Agreement, (ii) all content that is viewed, stored or transmitted via the Service, as applicable, and (iii) all third-party charges incurred for merchandise and services accessed via the Service, if any. Customer shall not use, or allow the Services to be used, in any manner that would violate the applicable Spectrum Acceptable Use Policies or that would cause, or be likely to cause, Spectrum to qualify as a "Covered 911 Service Provider" as defined in 47 C.F.R. §12.4 or any successor provision of the rules of the Federal Communication Commission. For avoidance of doubt, Customer and Spectrum agree that any failure to satisfy the covenants set forth in the preceding sentence shall constitute a material breach of the Service Agreement.

11. PERFORMANCE. Unless otherwise set forth in an Attachment or service level agreement, Spectrum will use commercially reasonable efforts to provide the Services to Customer twenty-four (24) hours per day, seven (7) days per week. It is possible, however, that there will be interruptions of Service. The Service may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Spectrum's reasonable control. Temporary service interruptions or outages for such reasons, as well as service interruptions or outages caused by Customer, its agents and employees, or by a Force Majeure Event, shall not constitute a failure by Spectrum to perform its obligations under this Service Agreement.

12. MONITORING, EQUIPMENT UPGRADES AND NETWORK MODIFICATIONS. Spectrum has the right, but not the obligation, to upgrade, modify, and enhance the Spectrum Network and the Service and take any action that Spectrum deems appropriate to protect or improve the Service and its facilities. Spectrum shall have the right, but not the obligation, to monitor, record, and maintain oral communications with Customer regarding Customer's account or Services for the purpose of service quality assurance, or as permitted under applicable law.

13. DEFAULT, SUSPENSION OF SERVICE, AND TERMINATION.

(a) Default. A Party shall be in default under this Service Agreement if it has failed to comply with the terms of this Service Agreement or any of all of the applicable Service Orders, including without limitation the obligation to pay any amounts due, and such Party fails to correct each such noncompliance within thirty (30) days of receipt of notice from the non-defaulting Party describing in reasonable detail the default or noncompliance ("Default").

(b) Mutual Termination Rights. Either Party may terminate this Service Agreement or a Service Order if: (i) the other Party is in Default; or (ii) the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debts, initiates any proceeding seeking general protection from its creditors, or is removed or delisted from a trading exchange.

(c) Termination for Convenience by Customer. Notwithstanding any other term or provision in this Service Agreement, Customer may terminate a Service Order, or this Service Agreement, at any time upon thirty (30) days prior notice to Spectrum, subject to payment of all outstanding amounts due, payment of any applicable Termination Charges (as defined below), and the return of any Spectrum Equipment.

(d) Spectrum's Right to Suspend. Spectrum shall have the right, at its option, without prior notice, and in addition to any other rights of Spectrum expressly set forth in this Service Agreement and any other remedies it may have under applicable law to suspend Services if Customer fails to comply with any applicable laws or regulations or this Service Agreement, or if Customer or its End Users' use of the Service is determined by Spectrum, in its sole discretion, to result in a material degradation of the Spectrum Network until Customer remedies any such noncompliance or degradation. Any suspension shall not affect Customer's on-going obligation to pay Spectrum any amounts due under this Service Agreement. If Spectrum suspends any Service, Spectrum may require the payment of reconnect or other charges before restarting the suspended Service.

(e) Termination Charges. Upon Termination, Customer must pay all Services Charges then due for Services provided through the effective date of Termination. In addition, if Termination is due to Customer Default or for Customer's convenience, Customer must pay Spectrum a termination charge (a "Termination Charge"), which the Parties recognize as liquidated damages and not as a penalty. This Termination Charge shall be equal to 100% of the unpaid balance of all Service Charges that would have been due throughout the applicable Order Term, including, without limitation, the outstanding balance of any and all unpaid OTCs. The foregoing terms will also apply to any partial Termination impacting one or more Service Orders, but not the entire Service Agreement.

(f) Survival. The provisions of sections 6(c), 7(b), 7(e), 13(e), 13(f), 14, 15, 18-22 and the Attachments shall survive the termination or expiration of the Service Agreement.

14. DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY.

(a) **DISCLAIMER OF WARRANTY.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND SPECTRUM EQUIPMENT, AND USES THE SAME AT ITS OWN RISK, AND FOR ACCESS TO AND SECURITY OF CUSTOMER'S EQUIPMENT AND CUSTOMER'S NETWORK. SPECTRUM EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND SPECTRUM EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH APPLICATIONS OR CONTENT. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, THE SERVICE, SPECTRUM EQUIPMENT, AND ANY SPECTRUM MATERIALS ARE PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY SPECTRUM, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. SPECTRUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SET FORTH IN THE SERVICE AGREEMENT, SPECTRUM DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY SPECTRUM WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH, OR THROUGHPUT RATE. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE

USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR ANY END USER'S EQUIPMENT OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

(b) LIMITATION OF LIABILITY. WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS SERVICE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, ANY END USER, OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS SERVICE AGREEMENT OR THE PROVISION OF SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY, MISREPRESENTATION, OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY OF CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS SERVICE AGREEMENT. SPECTRUM'S MAXIMUM LIABILITY TO CUSTOMER WITH REGARD TO ANY SERVICE ORDER SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCS, PAID OR PAYABLE BY CUSTOMER TO SPECTRUM FOR THE APPLICABLE SERVICE ORDER IN THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM. SPECTRUM SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR ANY OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES, OR SERVICES.

15. INDEMNIFICATION. Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Spectrum, its affiliates, service providers, and suppliers, and their directors, employees, representatives, officers and agents (the "Indemnified Parties") against any and all third party claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Indemnified Parties, to the full extent that such arise from or relate to any one or more of the following:

- (a)** Customer's use or misuse of the Service,
- (b)** Customer's failure to comply with any applicable law, order, rule, regulation or ordinance or this Service Agreement,
- (c)** Personal injury or tangible property damage caused by Customer's or its employees' or agents' negligence or willful misconduct.

Indemnified Parties shall have the right but not the obligation to participate in the defense of the claim.

16. COMPLIANCE WITH LAWS. As between the Parties, Spectrum shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Spectrum's operation and provision of the Services as contemplated in the Service Agreement, and Customer shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated in the Service Agreement. Unless specified otherwise in the Service Agreement, each Party shall give all notices, pay all fees and comply with all applicable laws, ordinances, rules and regulations relating to its performance obligations specified in the Service Agreement. The Service Agreement is subject to all applicable federal, state, or local laws and regulations in effect in the relevant jurisdiction(s) in which Spectrum provides the Services. If any provision of the Service Agreement contravenes or is in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of the Service Agreement. If the relevant law or regulation applies to some but not all of the Services being provided under the Service Agreement, then such law or regulation shall take priority over the relevant provision of the Service Agreement only for purposes of those Services to which the law or regulation applies. Except as explicitly stated in the Service Agreement, nothing contained in the Service Agreement shall constitute a waiver by Spectrum of any rights under applicable laws or regulations pertaining to the installation, construction, operation, maintenance, or removal of the Services, facilities or equipment.

17. REGULATORY CHANGES. In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in any government- or quasi-government-imposed fees or charges that increases the costs or other terms of Spectrum's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by Spectrum in providing the Service, Customer acknowledges and agrees that Spectrum may pass through to Customer any such increased fees or costs, but

only to the extent of the actual increase. Spectrum shall use commercially reasonable efforts to notify Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the Service Charges payable by Customer under the Service Agreement for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without an obligation to pay Termination Charges, provided Customer notifies Spectrum at least thirty (30) days in advance of Customer's requested termination date. Further, in the event that Spectrum is required to file tariffs, rate schedules, or price guides with a regulatory agency or otherwise publish or make generally available its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff, rate schedule, or price guide shall govern Spectrum's delivery of, and Customer's use or consumption of the Service. In addition, if Spectrum determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then Spectrum may terminate the Service Agreement and any affected Service Orders without liability, by giving Customer thirty (30) days prior notice or any such notice as is required by law or regulation applicable to such determination.

18. ARBITRATION. This Service Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to Customer in the event of a dispute. Subject to the "Exclusions" paragraph below, Spectrum and Customer agree to arbitrate disputes and claims arising out of or relating to this Service Agreement, the Services, the Spectrum Equipment, Network, or marketing of the Services. Notwithstanding the foregoing, either Party may bring an individual action on any matter or subject in small claims court. The arbitrator of any dispute or claim brought under or in connection with this Service Agreement shall not have the power to award injunctive relief, which may only be sought in an appropriate court of law. No claim subject to arbitration under this Service Agreement may be combined with a claim subject to resolution before a court of law. THIS SERVICE AGREEMENT MEMORIALIZES A TRANSACTION IN INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THESE ARBITRATION PROVISIONS.

(a) A Party who intends to seek arbitration must first send to the other a written notice of intent to arbitrate, entitled "Notice of Intent to Arbitrate" ("Notice"). The Notice to Spectrum should be addressed to: VP and Associate General Counsel, Litigation, Charter Communications, 12405 Powerscourt Drive, St. Louis, MO 63131 ("Arbitration Notice Address"). The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. If the Parties do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Customer or Spectrum may commence an arbitration proceeding, in which all issues are for the arbitrator to decide (including the scope of the arbitration clause), but the arbitrator shall be bound by the terms of this Service Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Service Agreement, and the arbitration shall be administered by the AAA. The AAA Rules and fee information are available at www.adr.org, by calling the AAA at 1-800-778-7879, or by writing to the Arbitration Notice Address.

(b) EACH PARTY SHALL BEAR THE COST OF ANY ARBITRATION FILING FEES AND ARBITRATOR'S FEES THAT SUCH PARTY INCURS INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES OR EXPERT WITNESS COSTS UNLESS OTHERWISE REQUIRED UNDER APPLICABLE LAW. If the arbitrator's award exceeds \$75,000, either Party may appeal such award to a three-arbitrator panel administered by the AAA and selected according to the AAA Rules, by filing a written notice of appeal within thirty (30) days after the date of entry of the arbitration award. The appealing Party must provide the other Party with a copy of such appeal concurrently with its submission of the appeals notice to AAA. The three-arbitrator panel must issue its decision within one hundred twenty (120) days of the date of the appealing Party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which may exist under the Federal Arbitration Act. The Parties may agree that arbitration will be conducted solely on the basis of the documents submitted to the arbitrator, via a telephonic hearing, or by an in-person hearing as established by AAA rules. Unless Spectrum and Customer agree otherwise in writing, all hearings conducted as part of the arbitration shall take place in the Borough of Manhattan, City of New York.

(c) CUSTOMER AGREES THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND SPECTRUM ARE WAIVING THE RIGHT TO A TRIAL BY JUDGE OR JURY. CUSTOMER AND SPECTRUM AGREE THAT CLAIMS MAY ONLY BE BROUGHT IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT ON BEHALF OF, OR AS PART OF, A CLASS ACTION OR REPRESENTATIVE PROCEEDING. Furthermore, unless both Customer and Spectrum agree otherwise in writing, the arbitrator may not consolidate proceedings or more than one person's claims and may not otherwise preside over any form of representative or class proceeding. If this specific paragraph is found to be unenforceable, then the entirety of these arbitration provisions shall be null and void and rendered of no further effect with respect to the specific claim at issue.

(d) Severability. If any clause within these arbitration provisions is found to be illegal or unenforceable, that specific clause will be severed from these arbitration provisions, and the remainder of the arbitration provisions will be given full force and effect. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT SOME OR ALL OF THESE ARBITRATION PROVISIONS IS DETERMINED TO BE UNENFORCEABLE FOR ANY REASON, OR IF A CLAIM IS BROUGHT THAT IS FOUND BY A COURT TO BE EXCLUDED FROM THE SCOPE OF THESE ARBITRATION PROVISIONS, BOTH PARTIES AGREE TO WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY TRIAL BY

JURY. For purposes of the foregoing sentence only, in the event such waiver is found to be unenforceable, it shall be severed from this Service Agreement, rendered null and void and of no further effect without affecting the rest of the arbitration provisions set forth herein.

(e) EXCLUSIONS. CUSTOMER AND SPECTRUM AGREE THAT THE FOLLOWING CLAIMS OR DISPUTES SHALL NOT BE SUBJECT TO ARBITRATION:

- i. ANY INDIVIDUAL ACTION BROUGHT BY CUSTOMER OR BY SPECTRUM ON ANY MATTER OR SUBJECT THAT IS WITHIN THE JURISDICTION OF A COURT THAT IS LIMITED TO ADJUDICATING SMALL CLAIMS.
- ii. ANY DISPUTE OVER THE VALIDITY OF ANY PARTY'S INTELLECTUAL PROPERTY RIGHTS.
- iii. ANY DISPUTE RELATED TO OR ARISING FROM ALLEGATIONS ASSOCIATED WITH UNAUTHORIZED USE OR RECEIPT OF SERVICE.

19. PROPRIETARY RIGHTS AND CONFIDENTIALITY.

(a) Spectrum's Proprietary Rights. All materials including, but not limited to, any Spectrum Equipment (including related firmware), software, data and information provided by Spectrum, any identifiers or passwords used to access the Service or otherwise provided by Spectrum, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by Spectrum to provide the Service (collectively "Spectrum Materials") shall remain the sole and exclusive property of Spectrum or its suppliers and shall not become a fixture to the Service Location. Customer shall acquire no title to, interest or right (including intellectual property rights) in the Spectrum Materials by virtue of the payments provided for herein other than the limited, non-exclusive, and non-transferable license to use the Spectrum Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify, or distribute the Spectrum Materials, in whole or in part, or use them for the benefit of any third party. Customer shall not cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Services. All rights in the Spectrum Materials not expressly granted to Customer herein are reserved to Spectrum or its suppliers. Customer shall not open, alter, misuse, tamper with, or remove the Spectrum Equipment or Spectrum Materials as and where installed by Spectrum, and shall not remove any markings or labels from the Spectrum Equipment or Spectrum Materials indicating Spectrum (or its suppliers) ownership or serial numbers.

(b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the Spectrum Materials and any other information and materials provided by Spectrum in connection with this Service Agreement, including but not limited to the contents of this Service Agreement and any Service Orders. Customer may not issue a press release, public announcement or other public statements regarding the Service Agreement without Spectrum's prior consent.

(c) Software. If Software is provided to Customer hereunder, Spectrum grants Customer a limited, non-exclusive, and non-transferable license to use such Software, in object code form only, for the sole and limited purpose of using the Services for Customer's internal business purposes during the Term. Customer shall not copy, reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any Software. Upon termination of a Service Order, the license to use any Software provided by Spectrum to Customer in connection with the Services provided under the Service Order shall terminate and Customer shall destroy any copies of the Software provided to Customer.

20. PRIVACY. Spectrum also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy may be found on Spectrum's website at <https://enterprise.spectrum.com/>. The Privacy Policy may be updated or modified from time-to-time by Spectrum, with or without notice to Customer. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act, the Federal Cable Communications Act, the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in an Attachment, the Privacy Policy, and, if applicable, in Spectrum's tariff, which are incorporated into, and made a part of, this Service Agreement by this reference. In addition to the foregoing, Customer hereby acknowledges and agrees that Spectrum may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers or any similar agency, or in accordance with the Privacy Policy or, if applicable, tariff(s). In addition, Spectrum shall have the right (except where prohibited by law), but not the obligation, to disclose any information to protect its rights, property or operations, or where circumstances suggest that individual or public safety is in peril.

21. NOTICES.

(a) Except for notice to terminate the Service Agreement or to disconnect any Services as set forth in Section 21(b) below, all other notices to be given under this Service Agreement shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following addresses

If to Spectrum:
Charter Communications Operating, LLC

ATTN: Commercial Contracts Management
Corporate - Legal Operations
12405 Powerscourt Drive
St. Louis, MO 63131

Notices to Customer shall be sent to the Customer billing address or as set forth in the Service Agreement. Each Party may change its respective address(es) for legal notice by providing notice to the other Party. Upon Spectrum's request, Customer will also provide Spectrum with a current email address that Customer regularly checks so that Spectrum may provide copies of notices and other communications to Customer by email.

(b) Disconnect Notice. Customer may disconnect a Service or all Services under the Services Agreement by following the instructions available at this link: <https://enterprise.spectrum.com/support/faq/account/how-to-cancel-service.html> (such instructions in the link may be updated from time to time).

22. MISCELLANEOUS.

(a) Entire Agreement. This Service Agreement, including without limitation all Attachments, incorporated documents and any executed Service Orders constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof. This Service Agreement supersedes all prior understandings, promises, and undertakings, if any, made orally or in writing by or on behalf of the Parties with respect to the subject matter of this Service Agreement, including without limitation any prior confidentiality or non-disclosure agreement between the Parties regarding the purchase and sale of Spectrum Services. Spectrum may change or modify the Terms of Service at any time by posting revised Terms of Service to the Spectrum website at <https://enterprise.spectrum.com/> or such other URL as Spectrum may specify from time to time (the "Spectrum Website"). The revisions to the Terms of Service are effective upon posting to the Spectrum Website. Customer may receive notice of any revisions to the Terms of Service by email or in the next applicable invoice. Customer shall have thirty (30) calendar days from the date of the notice to provide Spectrum with written notice that the revisions to the Terms of Service materially and adversely affect Customer's use of the Services. If after notice Spectrum is able to verify such material adverse effect, but is unable to reasonably mitigate the impact on such Services, then Customer may terminate the impacted Services and Service Order(s) without further obligation to Spectrum beyond the termination date, including Termination Charges, if any, as its sole and exclusive remedy. Customer should also consult Spectrum's website <https://enterprise.spectrum.com/> to be sure Customer is aware of Spectrum's Acceptable Use Policies, Network Management Practices, applicable tariffs and price guides, and other policies or practices that are applicable to Customer's use of the Services (collectively "Policies"). Customer's use of the Services shall be deemed acknowledgment that Customer has read and agreed to Spectrum's Policies as a part of this Service Agreement.

(b) Signatures; Electronic Transactions. This Service Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature. The Parties agree to conduct business using electronic means including using electronic records and electronic signatures, except as provided with respect to notices in Section 21.

(c) Order of Precedence. Each Service shall be provisioned pursuant to the terms and conditions of this Service Agreement. In the event that Spectrum permits Customer to use its own standard purchase order form to order the Service, the Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of the Service Agreement or any Service Order are inconsistent with the terms of any applicable tariff, the tariff shall control. To the extent that the terms of any Service Order are inconsistent with the terms of these Terms of Service, the Terms of Service shall control, excluding pricing discounts, nonrecurring fees, or order fulfillment timing terms to the extent permissible under applicable law set forth in the Service Order that shall control.

(d) No Assignment or Transfer. Customer may not assign or transfer (directly or indirectly by any means, including by operation of law or otherwise) this Service Agreement and the associated Service Order(s), or their rights or obligations hereunder to any other entity without first obtaining consent from Spectrum, and any assignment or transfer in violation of this Section shall be null and void. Spectrum may assign its rights and obligations under this Service Agreement, in whole or in part, and any Service Order(s) to affiliates controlling, controlled by or under common control with Spectrum, or to its successor-in-interest if Spectrum sells some or all of the underlying communications system(s) without the prior approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of Spectrum in the Service Agreement may accrue to, or be fulfilled by, any affiliate, as well as by Spectrum or its subcontractors.

(e) Severability. To the extent any term, covenant, condition or portion of this Service Agreement is held to be invalid or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law as nearly as possible to reflect the original intentions of the Parties.

(f) Force Majeure. Notwithstanding anything to the contrary in the Service Agreement, neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such Party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, weather, fire, flood, natural causes, mechanical or power failures, fiber cuts, governmental acts or any order, law or ordinance in any way restricting the operation of the Services (each a "Force Majeure Event"). Changes in economic, business, or competitive conditions shall not be considered a Force Majeure Event.

(g) Governing Law; Claims Limitation; Waiver of Jury Trial. The law of the state of New York shall govern the construction, interpretation, and performance of this Service Agreement, except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded. Any legal action brought under or in connection with the subject matter of the Service Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Service Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Service Agreement in the Federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Any claim that Customer wishes to assert under the Service Agreement must be initiated not later than one (1) year after the claim arose. IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND SPECTRUM EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.

(h) No Third Party Beneficiaries. The terms of this Service Agreement and the Parties' respective performance of obligations as described are not intended to benefit any person or entity not a Party to this Service Agreement, and the consideration provided by each Party hereunder only runs to the respective Parties, and that no person or entity not a Party to this Service Agreement shall have any rights hereunder nor the right to require performance of obligations by either of the Parties.

(i) Waiver. Except as otherwise provided herein, the failure of Spectrum to enforce any provision of this Service Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision. To be legally binding on Spectrum, any waiver must be in writing.

(j) Remedies Cumulative and Nonexclusive. Unless stated otherwise herein, all rights and remedies of the Parties under this Service Agreement shall be cumulative, nonexclusive and in addition to, but not in lieu of, any other rights or remedies available to the Parties whether provided by law, in equity, by statute or otherwise. The exercise of any right or remedy does not preclude the exercise of any other rights or remedies.

Attachment A
Spectrum Business TV and Enterprise TV Service
(collectively, “TV Service”)

Spectrum Business TV Service: Spectrum Business TV Service includes television programming services, including the package of channels and music programming as designated in a Service Order. Customer must notify Spectrum if Customer's use of the Service will be for private or public viewing. If specified in the Service Order, Spectrum will provide to private-view Customers premium programming such as HBO, Showtime, TMC, Cinemax, STARZ, Encore, or Epix, or Customer premise equipment such as DVRs (collectively, “Premium Services”).

Spectrum Enterprise TV Service: Spectrum Enterprise shall provide the customized multi-channel video programming service (“Enterprise TV Service”) to Customer's Service Location(s) identified in a Service Order. Enterprise TV Service includes Government TV, Healthcare TV, Hospitality TV, and Education/University TV. Enterprise TV Service includes the channel line-up and those premium and other pay-per-view, video-on-demand, or any visual content as mutually agreed upon in the Service Order. If specified in the Service Order, Spectrum will provide Premium Services to Customer.

1. Music Programming. Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers, Broadcast Music, Inc., and SESAC, Inc. or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate relating to Customer's transmission, retransmission, communication, distribution, performance or other use of the Services. Customer shall not, and shall not authorize or permit any other person to, do any of the following unless Customer has obtained a then-current music license permitting such activity: (i) charge a cover charge or admission fee to any Service Location(s) at the time the TV Service is being displayed or are to be displayed; or (ii) permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the TV Service.

2. Spectrum Equipment. Spectrum owns and shall at all times have the exclusive right to access, control, maintain, upgrade, use and operate its TV Service, Network, and Spectrum Equipment, except for (i) any video display terminals (“Connections”) or inside wiring owned and maintained by Customer or a third party, and (ii) any conduit, risers, raceways or other spaces where the Network or Spectrum Equipment is located that are owned by Customer or a third party, in which case (as between Customer and Spectrum) Customer shall own such items and Customer hereby grants to Spectrum the non-exclusive right to access and use such space during the Order Term as provided in the Service Agreement. The inside wiring and Connections shall be provided and installed by Customer, at its sole expense, in consultation with Spectrum and any specifications provided by Spectrum to Customer in writing. Spectrum shall not be responsible for an outage that may be due to a fault or failure with respect to any inside wiring, Connections or any systems, equipment or facilities of Customer or any third party, including but not limited to, instances where such outage is due to the Customer's failure to promptly provide Spectrum with access to the Service Location to inspect, monitor, repair, and/or replace the TV Service or Spectrum Equipment. If changes in technology require the use of specialized equipment to continue to receive Spectrum Business TV Service, Spectrum shall provide such Spectrum Equipment, and Customer shall pay for such Spectrum Equipment at the same rate charged by Spectrum to commercial customers in the same service area as the Service Location.

3. Provision of Service. Spectrum may, in its discretion, preempt, rearrange, delete, add, discontinue, modify or otherwise change any or all of the advertised programming comprising, packaging of, channel line-ups applicable to, and/or distribution of its TV Service. Spectrum may make certain TV Service available via mobile applications or third party hardware to Customer and its End Users, which may be subject to additional terms and conditions.

4. Restrictions. Customer shall take all necessary precautions to ensure that the TV Service is received only by authorized parties, and that no part of the TV Service is received at any other location, including but not limited to locations where an admission fee, cover charge, minimum or like sum is charged. Customer shall not and shall not authorize or permit any other person to (i) copy, record, dub, duplicate, alter, make or manufacture any recordings or other reproductions of the TV Service (or any part thereof); (ii) transmit the TV Service by any television or radio broadcast or by any other means or use the TV Service outside the Service Location; (iii) move the TV Service to another location after installation; or (iv) insert any commercial announcements into the TV Service or interrupt any performance of the TV Service for the making of any commercial announcements. Customer acknowledges that such duplication, reproduction or transmission may subject Customer to criminal penalties and/or civil liability and damages under applicable copyright and/or trademark laws. TV Service is available for use at commercial establishments and other non-residential buildings (such as a bar, restaurant, hospital, or commercial building). In commercial establishments with public viewing, only the TV Service lineup(s) that is approved for public viewing may be used. Customer may not order or request pay-per-view (PPV) programming for receipt, exhibition or taping in a commercial establishment; or exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Spectrum's prior written consent.

5. Service Inspection. Customer shall permit Spectrum reasonable access to the Service Locations to inspect the Service Location at periodic intervals as needed to ascertain, among other things, the number of television outlets receiving the TV Service, or verify the estimated viewing occupancy. If any Spectrum inspection reveals that Customer's usage of the TV Service exceeds Customer's rights under the Service Agreement or Service Order and without abrogating or otherwise affecting Spectrum's right to consider such activity a breach of the Service Agreement, Customer shall pay Spectrum an amount equal to one and a half times the MRCs that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable MRCs for such additional usage or Spectrum may, in its discretion, suspend or disconnect a TV Service.

6. Noninterference. Customer shall not interfere with, alter or substitute any of the programs, information or content offered as part of the TV Service, which are transmitted over any of the channels provided hereunder without the prior written consent of Spectrum. Under no circumstances shall Customer have any right to encode, alter, reformat, delete or otherwise modify the TV Service, including without limitation delivery method and any programming contained within the TV Service, without the express written consent of Spectrum. The limitations of this paragraph shall not apply to formatting of programming for Enterprise TV Service as agreed by Spectrum and Customer.

7. Charges. Notwithstanding anything to the contrary in the Service Agreement, the MRCs set forth in a Service Order for TV Service: (i) do not include applicable taxes, regulatory fees, franchise fees or public access fees; and (ii) are subject to change in accordance with commercial rate increases applied to commercial customers.

8. End User Support. Customer shall provide all first level contact and support to its authorized users relating to the Network, Spectrum Equipment, Connections, Customer-provided equipment, and Enterprise TV Service. In the event of any disruption, failure, or degradation of the Enterprise TV Service lasting for twenty-four (24) consecutive hours or more, Customer shall use all reasonable efforts to diagnose the cause of the Enterprise TV Service impacting event. If the Enterprise TV Service impacting event is reasonably determined to be caused by the signal delivered by Spectrum, Customer shall contact the designated Spectrum technical support contact for resolution.

9. Set Back Box. Customer's use of the Set Back Box Product ("SBB") available as part of the Enterprise TV Service (the "SBB Offering") is subject to the following additional terms and conditions:

(a) Notwithstanding Section 2 above, Spectrum shall install and program all Connections for the SBB Offering. Customer shall ensure the availability of Connections that are compatible with the SBB Offering including, without limitation, the provision and use of appropriate tuners and Connections having HDTV compatibility.

(b) If Customer desires for the front desk portal and the TV user interface associated with the SBB Offering to be co-branded (with Spectrum's and Customer's brands), then Customer shall provide Spectrum Enterprise a copy of Customer's logo in accordance with Spectrum's technical specifications and hereby grants Spectrum a right and license to use such logo for purposes of such co-branding.

10. SpectrumU Service. SpectrumU is an online video service accessible via an Internet browser or through a mobile device application (the "SpectrumU TV App") that permits authorized users to stream video content over-the-top while connected to Customer's Wi-Fi network (the "SpectrumU Service").

(a) Customer is not required to purchase Internet or Wi-Fi service from Spectrum in order to purchase or use the SpectrumU Service. Many factors affect the quality of service experienced by Customer and its authorized users, including without limitation, the quality of the Internet and Wi-Fi service provided by Customer, events impacting the Customer's Wi-Fi network such as network service attacks, and the authorized user's device.

(b) Customer acknowledges that Spectrum requires Customer's authorized users to accept separate end user license terms when downloading the SpectrumU TV App.

(c) Spectrum may require that authorized users update the SpectrumU TV App from time-to-time in order to continue to use the SpectrumU Service via the SpectrumU TV App.

Attachment B
Spectrum Business Voice Service, PRI/SIP Trunking Service
(collectively “Voice Services”)

**Spectrum Hosted Voice, Hosted Voice for Hospitality, Hosted Call Center, and
Unified Communications (collectively, “Hosted Communications Services”)**

DESCRIPTION OF SERVICES:

Voice Services:

Spectrum Business Voice Service: If Customer selects to receive Spectrum Business Voice Service, Customer will receive voice service consisting of one or more lines or connections and a variety of features, as described more fully in the applicable Service Order and price guide.

SIP Trunking Service: If Customer selects to receive the SIP Trunking Service, Customer will receive voice and call processing services via eight or more concurrent call paths using a Session Initiation Protocol (“SIP”) connection to the Customer’s private branch exchange (including any non-Spectrum switch, collectively, “PBX”) or other Customer Equipment, and a variety of features, as described more fully in the applicable Service Order.

PRI Service: If Customer selects to receive PRI Service, Customer will receive voice and call processing services via a full (23B+1D channel) or fractional (12B+1D channel) Primary Rate Interface (“PRI”) connection to Customer’s PBX or other Customer Equipment, and a variety of features, as described more fully in the applicable Service Order.

Analog Lines Over Fiber Service: If Customer selects to receive Analog Lines over Fiber Service, Customer will receive voice and call processing services via an analog connection to the Customer’s PBX that is equipped with an analog line card interface or other analog line based Customer Equipment like a fax machine. A variety of features, including line hunting, are offered, as described more fully in the applicable Service Order.

Toll-Free Service for Spectrum Trunking: If Customer selects to receive Spectrum Toll-Free Service for use with trunking service, Customer will receive voice service consisting of one or more toll-free numbers and access to a variety of optional screening and routing features including:

- Origination Screening: Allows or disallows an originating call made to a single toll-free number based on the originating Number Plan Area (NPA) and/or prefix (NXX) of the caller.
- Origination Routing: Routes an originating call made to a single toll-free number to a pre-determined Direct Inward Dialing (DID) number location based on the originating NPA and/or NXX of the caller.
- Schedule-Based Routing: Routes an originating call made to a single toll-free number to a pre-determined DID number location based on the time of day, day of week or day of year.
- Percentage Call Allocation: Routes an originating call made to a single toll-free number to any of two or more pre-determined DID number locations based on the Customer’s allocated traffic percentage between the DID number locations.
- Toll-Free Dialed Number Identification Service (DNIS): Provides the original called toll-free number to the terminating location, if the toll-free number/call is terminated to the Spectrum trunking service.

Note: Spectrum Toll-Free Service must terminate to a Spectrum trunking service. Not all Toll-Free Service features may be available in all areas.

E911 Location Plus: If Customer selects to receive Spectrum E911 Location Plus for use with trunking service, Customer may add or manage station level address information (for example, floor, suite, or office number) for telephone numbers at a Service Location for Customer’s E911 address records through use of the E911 Location Plus self-service web portal. E911 Location Plus may be used by a Customer operating its own multi-line telephone system in an office or apartment building, or other similar building environment that wishes to provide location information for its station level telephone numbers.

Spectrum Hosted Communications Services:

Spectrum Hosted Voice Service: If Customer selects to receive Hosted Voice Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance.

Spectrum Hosted Voice for Hospitality Service: If Customer selects to receive Hosted Voice for Hospitality Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance. Customer may also receive Property Management System integration and other services, including a variety of features, as described more fully in the applicable Service Order.

Spectrum Hosted Call Center: If Customer selects to receive Spectrum Hosted Call Center Service; Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance, as described more fully in the applicable Service Order.

Unified Communications Service: If Customer elects to receive Unified Communications Service features that are added onto a Spectrum Hosted Communications Service, Customer may receive a combination of (i) instant messaging and presence service, (ii) video calling service, (iii) desktop sharing service, and (iv) web collaboration service, as described more fully in the applicable Service Order. Unified Communications Services may also be available in personal computer, mobile phone, and tablet application formats where features, functionalities, and capabilities will differ based on the device used to access the Unified Communications Service (i.e., "soft phone service"). If Customer elects a soft phone service, it will be offered as a separate inbound and outbound service and Customer must choose one or both services prior to installation. Customer may later modify its selection in writing. If Customer or an End User accesses the Hosted Communications Services through use of an application, certain features, functionalities, or capabilities, such as two-way calling, may not be available. 911 CALLING WILL NOT BE AVAILABLE WITH SOFT PHONE SERVICE. When using such an application, Customer and End Users are subject to the terms of such application and the terms of this Service Agreement (including this Attachment). Changes made to the features, functionalities, capabilities of the Unified Communications Service, or to an application accessing Spectrum Hosted Communications Service, shall be in Spectrum's sole discretion.

COMMUNICATIONS SERVICES TERMS AND CONDITIONS:

Customer's use of the Voice Services and Hosted Communications Services (collectively, "Communications Service") is subject to the following additional terms and conditions:

1. Availability of Facilities and Service Modifications:

(a) Services and associated products, facilities, equipment, features and functions will be available in accordance with the terms of this Attachment, where technically and operationally feasible. The quantity of business lines for each Service Location is dependent on the technical feasibility at that specific location. Additional construction and facilities may be required to provide requested Communications Services at Customer's expense. Customer must pay for any special construction prior to the activation of service and/or cancellation of contract.

(b) Spectrum is not obligated to provide Communications Services if Customer intends to or uses the Communications Services (i) to interfere with or impair any service over any facilities and associated Spectrum Equipment or impair the privacy of any communications over such facilities and associated Spectrum Equipment; (ii) to sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Communications Services or any component or combination thereof; or (iii) in any manner that results in non-standard calling patterns or practices, including but not limited to, use of the Communications Service for high-volume auto-dialing, continuous or extensive call forwarding, high-volume telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting for services with unlimited local and long distance calling plans, and PBX hacking or modem hijacking resulting in excessive usage of long distance service (collectively, "**Prohibited Use**"). In addition, Prohibited Use shall include augmentation of the Communications Service or Communications Service features, in any way as to change the functionality of the Communications Service or its component features in any manner that is inconsistent with standard commercial calling patterns and practices or the terms of this Service Agreement. Such non-standard calling patterns and practices include, but are not limited to, use of three-way calling, or call forwarding, that results in unusually high traffic volumes or excessive long distance usage. A non-standard calling pattern may also include, when Customer's long distance calling minutes from (i) calls terminating to Alaska, (ii) calls terminating to Guam, (iii) calls terminating to a conference calling service operating in areas with high carrier access rates (e.g., rates that carriers pay one another for network use), or (iv) calls terminating to a chat line service, in the aggregate exceed ten percent (10%) of Customer's total long distance minutes in any one-month billing cycle.

(c) Spectrum may, from time to time, offer additional Communications Service features or functionality, or discontinue certain Communications Service features or functionality. Information about these features or functions will be available at <https://enterprise.spectrum.com> or <https://business.spectrum.com> or in the applicable price guide at <https://spectrum.com>, under "Customer Disclosures." These additional Communications Services, features, or functions may be subject to additional specific terms and conditions, and may be subject to change at any time by Spectrum.

2. Customer-Premise Equipment: Communications Services may require Customer-premise equipment. If required, Spectrum will supply such equipment for so long as Customer remains a Communications Service Customer. Depending on the Communications Service plan, there may be a monthly charge for the equipment. Upon termination of Communications Service for any reason, Customer shall return the Spectrum-supplied equipment within thirty (30) days or Customer will be charged an equipment fee equal to the fee charged by Spectrum at the time the equipment was supplied by Spectrum. An exception to this return policy is when the equipment is also supporting Internet service, in which case Customer may continue to use the equipment until such time as Internet is no longer provided or Spectrum requests a substitution of the equipment.

3. Communications Service Limitations:

(a) Unavailable Services; Call Blocking and Fraud. Spectrum does not offer or provide certain operator-assisted services such as dial around services (10-10-XXX), pay services, and third-party billing. Spectrum blocks access to calls with 900 and 976 area codes and to international chat lines. In addition, Spectrum will initiate toll blocking if Customer's excessive use of any toll has surpassed the threshold set by Spectrum and/or Customer's account is delinquent. Notwithstanding any other provision of the Service Agreement or this Attachment, Spectrum may block calls which (i) are made to certain countries, cities, or central office exchanges, or (ii) use certain authorization codes, as Spectrum, in its sole discretion, deems reasonably necessary to prevent unlawful or fraudulent use of Communications Services.

(b) Service Outages. Communications Service modems are electrically powered and will not work in a power outage or if the required broadband connection is disrupted or not operating. In the event of power outages, the modem, including all phones and Services connected to or powered by it, will not work. Power outages will disrupt Enhanced 911 ("E911") service and the use of Communications Service as the connection between a security system and central monitoring services. COMMUNICATIONS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, OR IF THERE IS A DISRUPTION TO THE SPECTRUM NETWORK OR FACILITIES, COMMUNICATIONS SERVICE WILL NOT WORK. CUSTOMER ACKNOWLEDGES THAT IN SUCH CASES IT WILL NOT BE POSSIBLE TO PLACE OR RECEIVE CALLS INCLUDING CALLS TO ACCESS EMERGENCY 911 SERVICES.

(c) Security Systems and Alarm Systems. Although Spectrum will supply a connection (such as an analog line connection), that may allow the operation of Customer's existing security system, alarm system or other non -voice system (such as an elevator alarm line), Spectrum does not guarantee that any such system will be in complete operational order following the installation of Communications Service. As such, it is Customer's obligation to contact its security, alarm or other system provider to inform them of the Communications Services installation, and any change in phone number, and to request a complete operational test of their system immediately following installation of the Communications Services. Spectrum does not provide power back up and is not responsible for the operation of any Customer security, alarm, or any other system in connection with Customer Equipment and, specifically, where the Customer Equipment does not have power backup (e.g., battery backup). In addition, it is Customer's responsibility to test its system on a regular basis. Spectrum does not represent that the Service is fail-safe. Customer is solely responsible for obtaining such testing, ensuring that such testing is completed in a timely manner, and confirming that the security system and any related Customer Equipment at the Service Location connected to the Communications Service operate properly. Customer is solely responsible for any and all costs associated with this activity. In all cases, it is Customer's responsibility to ensure that use of the Communications Service meets all applicable regulations.

(d) Prohibited Use: Spectrum prohibits the use of Communications Service as the connection between medical alert systems and a central monitoring station or a fire alarm, and Spectrum will neither connect to such services nor provide technical support for the connection.

4. Use of Services. Customer is solely responsible for: (i) prevention of Prohibited Use and unauthorized, unlawful, or fraudulent use of, or access to, Communications Services, which use or access is expressly prohibited; and (ii) administration and non-disclosure of any authorization codes provided by Spectrum to Customer. Spectrum may require Customer to immediately shut down its transmission of signals if Spectrum concludes, in its sole discretion, that such transmission is a Prohibited Use or causing interference to other customers or with other transmissions generally.

(a) Spectrum reserves the right (i) to refuse to provide, discontinue, or temporarily suspend Communications Services to or from a Service Location where the necessary facilities or equipment are not available under terms and conditions reasonably acceptable to Spectrum, or (ii) to limit or block Communications Services to and from any Service Location or the use of any authorization code, without any liability whatsoever, in the event that Spectrum detects or reasonably

suspects either (a) Prohibited Use or fraudulent, or unlawful use of the Communications Services, or use of the Communications Service in violation of the Service Agreement or this Attachment, or (b) consumption of Communications Services in excess of the credit limit (if any).

(b) Customer is responsible for (i) securing its Customer Equipment against placement of fraudulent calls, and (ii) ensuring that Customer Equipment is not being used for any Prohibited Use or fraudulent use or access with Communications Services. Customer shall be responsible for payment of all applicable charges for Communications Services and charged to Customer's accounts, even where those calls are originated by fraudulent means either from Customer's Service Location or from remote locations. Spectrum is not liable for any damages, including toll usage charges, Customer may incur as a result of the unauthorized use of its telephone facilities. This unauthorized use of Customer's facilities includes, but is not limited to, the placement of calls from the Service Location, and the placement of calls through Customer Equipment that are transmitted or carried on Spectrum's Network. Customer shall ensure that all uses by Customer, whether authorized by Customer or not, of the Spectrum Equipment or the Communications Services installed at the Service Location comply with all applicable laws, rules, regulations, and the Service Agreement (including this Attachment).

(c) Spectrum has the right to limit the Communications Service to reasonable quantities of minutes and messages used or consumed by Customer to prevent Prohibited Use and to maintain a high level of service for other Spectrum customers.

5. Access to Telecommunications Relay Communications Service: Telecommunications Relay Service ("TRS") enables deaf, hard-of-hearing or speech-impaired persons who use a Text Telephone ("TT") or Caption Telephone (collectively, "TDD") or similar devices to communicate with the hearing population not using TDD. It also allows the hearing population not using a TT to communicate with deaf, hard-of-hearing, or speech-impaired persons who do use a TDD. Customer will be able to access the state provider to complete such calls by either dialing the applicable telephone number directly or by dialing the number 711, where available. Spectrum may bill Customer a monthly surcharge in order to fund the TRS system.

6. 911 Services:

(a) CUSTOMER ACKNOWLEDGES THAT THE VOICE-ENABLED FIBER CONNECTION, CABLE MODEM, INTEGRATED ACCESS DEVICE ("IAD") OR OTHER SPECTRUM EQUIPMENT USED TO PROVIDE COMMUNICATIONS SERVICE ARE ELECTRICALLY POWERED AND THAT COMMUNICATIONS SERVICE, INCLUDING THE ABILITY TO ACCESS 911 AND E911 SERVICES AND ALARM, SECURITY, AND OTHER MONITORING SERVICES, MAY NOT OPERATE IN THE EVENT OF AN ELECTRICAL POWER OUTAGE, A SPECTRUM NETWORK SERVICE INTERRUPTION, OR A THIRD-PARTY NETWORK SERVICE INTERRUPTION IF THE COMMUNICATIONS SERVICE IS PROVIDED AS AN OVER-THE-TOP OR OFF-NET (TYPE II) SERVICE USING A THIRD PARTY'S NETWORK. CUSTOMER ALSO ACKNOWLEDGES THAT, IN THE EVENT OF A POWER OUTAGE AT A SERVICE LOCATION, ANY BACK-UP POWER SUPPLY PROVIDED WITH A SPECTRUM-PROVIDED VOICE-ENABLED CABLE MODEM, IAD, OR OTHER SPECTRUM EQUIPMENT USED IN DELIVERING THE COMMUNICATIONS SERVICE MAY ENABLE SERVICE FOR A LIMITED PERIOD OF TIME OR NOT AT ALL, DEPENDING ON THE CIRCUMSTANCES, AND THAT THE USE OF A BACK-UP POWER SUPPLY DOES NOT ENSURE THAT COMMUNICATIONS SERVICE WILL BE AVAILABLE IN ALL CIRCUMSTANCES. CUSTOMER SHALL ADVISE EVERY END USER OF COMMUNICATIONS SERVICE THAT SPECTRUM VOICE-ENABLED CUSTOMER EQUIPMENT IS ELECTRICALLY POWERED AND, IN THE EVENT OF A POWER OUTAGE OR SPECTRUM NETWORK SERVICE INTERRUPTION, COMMUNICATIONS SERVICE AND 911 OR E911 MAY NOT BE AVAILABLE. CUSTOMER SHALL DISTRIBUTE TO ALL END USERS OF COMMUNICATIONS SERVICE LABELS/STICKERS (TO BE SUPPLIED BY SPECTRUM) AND INSTRUCT ALL END USERS OF COMMUNICATIONS SERVICE TO PLACE THEM ON OR NEAR THE EQUIPMENT USED IN CONJUNCTION WITH THE COMMUNICATIONS SERVICE.

(b) Customer is not permitted to move Spectrum Equipment from the Service Location in which it has been installed. If Customer moves any of the voice-enabled cable modem, IAD, or other Spectrum Equipment to an address other than the Service Location identified on the Service Order, calls from the modem, IAD, or other Spectrum Equipment to E911 will appear to E911 emergency service operators to be coming from the Service Location identified on the Service Order and not the new address. Customer shall be solely responsible for directing emergency personnel at the customer premises at each Service Location.

(c) Customer will be notified by Spectrum as to whether the Communications Service to which Customer subscribes includes the capability to support E911 service from multiple locations or from a location other than the Service Location. Customer agrees that Spectrum will not be responsible for any losses or damages arising as a result of the unavailability of Communications Service, including the inability to reach 911 or other emergency services, the inability

to contact a security system or other monitoring service provider or any failure or fault relating to Customer Equipment, facilities or services, the use of third-party enterprise 911 solutions, or Customer's attempt to access Communications Service from a remote location.

(d) In some geographic areas, Communications Service does not provide the capability to support E911 service from any location other than the Service Location. In those areas, if Customer intends to assign telephone numbers to one or more locations other than the Service Location, Customer shall obtain from the incumbent LEC, a competitive LEC, or Spectrum a local telephone line or lines and ensure that (i) the address(es) associated with the additional location(s) are loaded into the 911 database by the provider of the local telephone line(s) such that 911 calls will deliver to the 911 answering point the actual location and address of the 911 caller and (ii) all 911 calls originated from the additional location(s) are transported and delivered over those local telephone lines. IN SUCH AREAS, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECTRUM, ITS AFFILIATES, ITS SERVICE PROVIDERS AND SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM AND AGAINST THIRD PARTY CLAIMS, LIABILITIES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' AND OTHER PROFESSIONALS' FEES, ARISING OUT OF OR RELATING TO 911 CALLS MADE BY END USERS OF THE COMMUNICATIONS SERVICE FROM LOCATIONS OTHER THAN THE SERVICE LOCATION.

(e) If Customer orders E911 Location Plus, (i) Customer may add and/or manage station level address information for telephone numbers at the Service Location through use of the E911 Location Plus self-service web portal; (ii) Customer shall be solely responsible for complying with all applicable local, state, and federal laws, rules, regulations and requirements for operation and use of a multi-line telephone system and for providing accurate station level address information (i.e., the applicable characters for display at a 911 operator) for Customer's telephone numbers; (iii) Customer will transmit the telephone number to Spectrum that is associated with the station that placed a 911 call; and (iv) Customer will ensure the initial and continuing accuracy of the station level address information for each Customer telephone number in the E911 Location Plus self-service web portal. Updates or modifications to station level address information in the E911 Location Plus self-service web portal may require up to 24 hours for implementation and/or updating. Non-Spectrum telephone numbers are not supported and may not be entered into the E911 Location Plus self-service web portal. Notwithstanding Customer's use of E911 Location Plus, Customer is solely responsible for directing emergency personnel at the Service Location.

(f) Customer shall not use the Communications Services, or allow the Communications Services to be used, (i) to provide 911 or E911 services; (ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or (iii) for any automatic location information services related to E911 or in any other manner that would cause, or be likely to cause, Spectrum to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §12.4 or any successor provision of the rules of the Federal Communication Commission. Any breach of this provision shall constitute a material breach of the Service Agreement.

(g) CUSTOMER ACKNOWLEDGES THAT SPECTRUM'S "ANYWHERE CONNECT" OR OTHER SOFTPHONE SOFTWARE OR APPLICATIONS (COLLECTIVELY "SOFTPHONE APPLICATIONS") ARE NOT A REPLACEMENT FOR MOBILE OR FIXED LINE VOICE SERVICES. SOFTPHONE APPLICATIONS DO NOT PERMIT END USERS TO MAKE 911 OR OTHER EMERGENCY CALLS. CUSTOMER SHALL PROVIDE ALTERNATIVE COMMUNICATION OPTIONS TO ENABLE END USERS TO MAKE 911 AND OTHER EMERGENCY CALLS WHEN USING SPECTRUM'S SOFTPHONE APPLICATIONS.

7. Custom Caller-ID (Voice Services only): If Customer activates Custom Caller ID for Trunks, which permits a customer to define the telephone number that Spectrum makes available to call recipients for Caller ID purposes, the telephone number chosen must be active and assigned to Customer. Custom Caller ID for Trunks may be used only where Customer employs a Customer Equipment solution that ensures that 911 and other emergency calls placed by an end user are routed to an appropriate public safety answering point or other responding agency based on the caller's location, in a manner consistent with applicable law. If Customer activates Custom Caller ID, they must configure their PBX to out-pulse a telephone number that is active in their Spectrum account and accurately identifies the Service Location for all outbound emergency 911 calls to be handled by that PBX. By activating Custom Caller ID for Trunks, Customer represents and warrants that it employs such a Customer Equipment solution and agrees to continue using such a solution until Customer discontinues its use of Custom Caller ID for Trunks. Telemarketers or other entities using Custom Caller ID for Trunks must comply with applicable federal and state laws, including obligations requiring identification of: (i) the telemarketer or the party on whose behalf the telemarketing call is made and (ii) the calling party's number ("CPN"), automatic number identification ("ANI"), or customer service number of the party on whose behalf the telemarketing call is made. The use of substitute or fictitious CPN, ANI, or other calling party information is prohibited. Custom Caller ID for Trunks may not be used by any person or entity in connection with any unlawful purpose.

8. **Cross Rate Center Telephone Numbers:** If Customer orders or utilizes telephone number(s) with Spectrum trunking service that are associated with a rate center that is different than the rate center where the Spectrum trunking service is located, (i) Customer's telephone number(s) will be provisioned as Direct Inward Dialing (DID) numbers on the Spectrum trunking service (referred to as "Cross Rate Center DIDs"); (ii) all calls originated from the Cross Rate Center DIDs will be rated based upon the rate center associated with the Spectrum trunking service location; and (iii) the address information for E911 calls from the Cross Rate Center DIDs shall be the address associated with the Spectrum trunking service location. Cross Rate Center DIDs may not be available in all Spectrum service areas, and Customer may purchase Remote Call Forwarding (RCF) or Remote Number Forwarding (RNF) in service areas where Cross Rate Center DIDs are not available.

9. **Centralized PBX Support:** If Customer orders Centralized PBX Support for a Customer PBX that serves multiple Customer locations (each, referred to as a "Remote Site"), Customer will connect each Remote Site to a single site on the Customer's network (referred to as a "Hub Site") and Spectrum trunking service will be installed at the Hub Site. The demarcation point for each Remote Site will be the Hub Site location where the Spectrum trunking service is installed. Customer is responsible for the quality of the network and connections, including the voice Quality of Service (QoS), on its side of the demarcation point, unless such network and connections are provided by Spectrum. Additionally, the following requirements are applicable to Centralized PBX Support:

(a) Telephone numbers utilized at each Remote Site (i) must be associated with the rate center where the Remote Site is located, and (ii) must be in a Spectrum service area.

(b) Cross rate center telephone number assignment is not permitted with Centralized PBX Support. Customer may purchase Remote Call Forwarding (RCF) or Remote Number Forwarding (RNF) if a Remote Site requires telephone numbers that are associated with a rate center that is different than the rate center where the Remote Site is located.

(c) The address information for E911 calls from a Remote Site shall be the address associated with the Remote Site. Customer is solely responsible for providing Spectrum with accurate telephone number and service address information for each Remote Site. Customer must contact Spectrum before moving telephones or telephone numbers to any address other than the Remote Site, otherwise calls from the telephones or telephone numbers will appear to E911 emergency service operators to be coming from the Remote Site and not the new address.

(d) Spectrum will calculate and remit 911 fees for each Remote Site based on state and local regulations at the address where telephone(s) and telephone number(s) are located and emergency services are dispatched.

10. All calls from a Remote Site will be rated based upon the rate center associated with telephone number(s) at the Remote Site. **Access:** Customer agrees to provide Spectrum and its authorized agents with access to Customer's internal telephone or local area network wiring at the network interface device or at some other minimum point of entry in order to facilitate the installation and operation of Communications Service over existing wiring. Customer hereby authorizes Spectrum to make any requests to Customer's landlord, building owner and/or building manager, as appropriate, and to make any requests to other or prior communications service providers, as necessary and appropriate, to ensure that Spectrum has all access to inside wiring and cabling necessary and sufficient to efficiently and securely install Communications Service and all related Spectrum Equipment. The agents and employees of Spectrum shall have the right to enter the Service Location at any reasonable hour for the purpose of installing, inspecting, maintaining, or repairing Spectrum Equipment, instruments and/or lines, or upon termination of the Communications Service, for the purpose of removing such Spectrum Equipment, instruments, and/or lines. **Exclusively for Businesses:** Communications Services are offered to businesses only and are not available for residential use.

11. **Customer Equipment:** Spectrum's obligation is to provide Communications Services to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum Network Demarcation Point at the Service Location. The "**Demarcation Point**" is the point of interconnection between the Spectrum Equipment or other facilities and the wiring at the Service Location. Customer is responsible for ensuring that all such Customer Equipment conforms to the Federal Communications Commission's requirements set forth in Part 68 of the Code of Federal Regulations (as amended), and Spectrum may discontinue the provision of Communications Services to any location where Customer Equipment fails to conform to such regulations. Customer shall be solely responsible for satisfying all legal requirements for interconnecting Customer-provided terminal equipment or communications systems with other provider's facilities, including, without limitation, application for all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. Satisfaction of all legal requirements, any interface equipment or any other facilities necessary to interconnect the facilities of Spectrum and other providers must be provided at Customer's sole expense.

12. **CPNI:** As a provider of telecommunications and interconnected VoIP services, Spectrum takes seriously its responsibility to protect the confidentiality of its customers' proprietary network information ("CPNI"). Spectrum is committed to protecting its telecommunications and interconnected VoIP service customers' CPNI in accordance with applicable regulatory and statutory requirements. CPNI is customer-specific data that is collected by Spectrum in the course of

providing telecommunications or interconnected VoIP services to its customers, and includes information relating to the quantity, technical configuration, type, destination, location, and amount of telecommunications and interconnected VoIP service usage by Customer, and information contained in Customer's bills that is obtained by Spectrum pursuant to its provision of telecommunications or interconnected VoIP service. Customer CPNI will be protected by Spectrum as described herein, in the Spectrum Privacy Policy and in accordance with applicable federal and state requirements. Notwithstanding anything else in this Agreement, the following shall not be CPNI: (i) Customer's directory listing information (i.e., Customer's name, address, and telephone number), and (ii) aggregated, deidentified and/or compiled information that does not contain individual customer characteristics, even if CPNI was used as a basis for such information.

(a) Spectrum may use and disclose CPNI when required by applicable law.

(b) Spectrum may use CPNI and share (including via email) CPNI with its partners and contractors, as well as with Customer's employees and representatives, without Customer consent: (i) to provide services and bills to Customer;; (ii) to protect the rights or interests of Spectrum and Customer in preventing fraud, theft of services, abuse, harassment and misuse of telecommunications services; (iii) to protect the security and integrity of Spectrum Network systems; and (iv) to market additional Spectrum services to Customer that are of the same category as the services that Customer purchases from Spectrum.

(c) Spectrum will obtain Customer's consent before using CPNI to market to Customer Spectrum services that are not within the categories of Services that Customer purchases from Spectrum. Customer agrees that Spectrum will not be liable for any losses or damages arising as a result of disclosure of CPNI in accordance with the terms of this Attachment.

(d) Spectrum will respond to Customer requests for CPNI, including call detail records, only in compliance with Spectrum's then-current authentication requirements and applicable law. Such authentication requirements may require Customer to obtain a secure password, which may be required for both online and telephone requests for calling detail records. Spectrum will notify Customer of any requests to change account passwords, activate online account access or change Customer's account address of record. Spectrum may provide such notice by voicemail, by email or by regular mail to Customer's prior account phone or address of record.

(e) Customer may identify a person or persons who are authorized to request CPNI by executing an Agency Letter provided by Spectrum. A copy of the Agency Letter can be obtained from Spectrum upon request. Customer is responsible for: (i) ensuring that Spectrum receives timely notice of any changes to the list of authorized individuals identified in the Agency Letter. Spectrum will not be liable to Customer for any disclosure of CPNI (including call detail records) that occurs if Spectrum has complied with the Agency Letter.

(f) Provided that Customer is served by at least one dedicated Spectrum representative under this Attachment B, Spectrum may use any one of the authentication methods specified below to confirm that a person seeking Customer CPNI (including, without restriction, call detail records) is authorized to receive it. Spectrum will not be liable to Customer for any disclosure of CPNI (including call detail records) that occurs if Spectrum has complied with one or more of these authentication methods.

- Agency Letter. As provided in paragraph e, Spectrum may provide CPNI to any individual pursuant to the terms of an Agency Letter.
- Circuit ID. Spectrum may provide Customer CPNI to an individual that correctly identifies a Customer Circuit ID—i.e., a Spectrum-specific identifier assigned to a data or voice network connection between two locations.
- Premier Code. Spectrum may provide Customer CPNI to an individual that correctly identifies Customer's Premier Code—i.e., a 4-digit code that Spectrum may provide to Customer.

Spectrum reserves the right to add, remove, or alter these authentication methods in its sole discretion.

In the event of a conflict or inconsistency between the CPNI terms in this Attachment B and the remainder of the Service Agreement, the CPNI terms in Attachment B shall control.

13. Directory Listings: Spectrum will facilitate the inclusion of its business customers in alphabetical white and yellow pages directories and/or electronic compilations, as requested and available in Spectrum's service area. These listings are intended as a resource for interested parties who can use them to find the telephone numbers of Spectrum customers who subscribe to Communications Services. Spectrum, in its sole discretion, may limit the length of any listing in a directory or electronic compilation by abbreviating the listing. Listings may be subject to additional rules and restrictions. Toll free and private number service may be available to Customer for an additional charge. A listing may be omitted from a directory or electronic compilation upon Customer's request.

IN THE EVENT THAT A MATERIAL ERROR OR OMISSION IN CUSTOMER'S DIRECTORY LISTING INFORMATION,

REGARDLESS OF FORM, IS CAUSED BY SPECTRUM, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE A SERVICE CREDIT IN AN AMOUNT SET BY SPECTRUM'S THEN-CURRENT STANDARD POLICIES OR AS PRESCRIBED BY APPLICABLE REGULATORY REQUIREMENTS, IF ANY. SPECTRUM SHALL HAVE NO OTHER LIABILITY FOR ANY ERROR OR OMISSION IN ANY DIRECTORY LISTING INFORMATION.

14. Minute Packages: If a minutes of use ("MOU") package is exceeded, additional minutes will be charged at the standard toll rates listed at <https://enterprise.spectrum.com> (or successor URL), unless other rates have been provided in the Service Order.

15. Number Porting: Upon submission of a Service Order, Customer may port a telephone number within the rate center for its particular Service Location, or a toll-free number from an existing toll-free service provider, to Spectrum for use with Communications Services. Customer represents and warrants that it has all necessary rights and authority for any porting request, will provide copies of letters of authority authorizing the same upon request, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SPECTRUM AND ITS AFFILIATES FROM ANY THIRD-PARTY CLAIM RELATED TO OR ARISING OUT OF ANY PORTING REQUEST. Spectrum shall coordinate telephone number porting with Customer's former local service provider ("FLSP") or former toll-free service provider, as appropriate, using the operational process for coordinating telephone number porting as prescribed by the appropriate regulatory authority.

Spectrum may receive requests to port a telephone number currently assigned to Customer to a third -party service provider. Customer agrees that until such time as the porting process has been completed and no further traffic for any ported telephone number traverses the Spectrum Network, Customer shall remain bound by the terms of the Service Agreement and this Attachment (including, without limitation, Customer's obligation to pay for any applicable Services) for any and all traffic which remains on any Customer telephone numbers. Notwithstanding the foregoing, Customer shall notify Spectrum at least five (5) business days in advance of Customer requesting more than twenty (20) telephone numbers to be ported from Spectrum to another service provider. Customer has no property right in telephone number(s) or any other call number designations associated with the Communication Services, and Spectrum may change such numbers as deemed necessary.

16. Call Redirect: If a PRI Service, SIP Trunking Service, Analog Lines over Fiber, or Hosted Communication Service Customer elects to redirect calls to an alternate number and if the receiving telephone number is charged as domestic long distance, charges will be applied against Customer's MOU package on the account or, if exceeded, at the applicable long distance rates.

17. Fiber Internet Access Bundles: If Customer purchases a discounted bundled offering from Spectrum including a SIP Trunking Service, PRI Service, or Hosted Communications Services combined with Spectrum Fiber Internet Access, Customer must have the SIP Trunking Service, PRI Service, or Hosted Communications Service installed and billing within four months after the provisioning and turn-up of the bundled data circuit. The monthly recurring charge will revert to the non-bundled rate for the installed service if Customer fails to accept both Services within this timeframe.

18. Unified Communications Service Data: Spectrum and any third-party service provider Spectrum uses to provide Unified Communications Services may use Customer data provided to such service provider in the course of the performance of the Unified Communications Services, including but not limited to any personal data of Customer's employees ("UCS Data"), other than content transmitted by the Unified Communications Services, to (a) communicate with Spectrum or Customer, and (b) administer and/or perform this Service Agreement, any Service Order, and/or any agreement between Spectrum and such third-party service provider. Spectrum and such service provider may access or disclose UCS Data and related information, to: (i) satisfy legal requirements, comply with the law or respond to subpoenas, warrants or court orders, or (ii) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of Spectrum's or such service provider's employees, customers or the public.

19. Voicemail; Call Recording and HIPAA. This paragraph shall apply if Customer is a Covered Entity or Business Associate under HIPAA. If Customer is a Covered Entity or Business Associate, and intends to create, receive, maintain or transmit protected health information ("PHI") through the use of the Hosted Communications Services, Customer agrees that with regard to the Voice Services (i.e. telephone service alone), Spectrum is acting solely as a "conduit". Under HIPAA, a "conduit" is a party that transports information but does not access it other than on a random or infrequent basis necessary for the performance of the transportation service or as required by law. However, Customer agrees that it shall notify Spectrum, and the parties shall enter into Spectrum's Business Associate Agreement, if Customer is to receive or store any PHI on the voicemail or call recording features of the Hosted Communications Services, both of which must occur before such receipt or storage of PHI. In such event, Customer further agrees that it shall not enable or otherwise use any "voicemail to e-mail" feature in connection with the Hosted Communications Services. As used herein, "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing rules and regulations, and "Covered Entity," "Business Associate," and "protected health information" shall have their respective meanings as defined by HIPAA.

Attachment C

Spectrum Business High-Speed Internet Service ("Internet Service")

Spectrum Business High-Speed Internet Service¹: Internet access service implemented using a hybrid fiber/coax ("HFC") or a fiber access network. Customer interface to the data network is via Ethernet connection. Internet Service enables a variety of upstream and downstream rates. If Customer elects to receive Internet Service, Spectrum shall provide connectivity from Customer site(s) to Customer's data network.

Certain Internet Services, or features of Internet Services, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third-Party Services"). Third Party Services may be subject to additional terms and conditions. Except to the limited extent described in this Attachment, Spectrum makes no warranties of any kind (express or implied) regarding Third-Party Services and hereby disclaims any and all warranties pertaining thereto (including implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose). Spectrum does not have title to and is not the manufacturer of any software or hardware components of any Third-Party Services nor is Spectrum the supplier of any components of such software or hardware. IN NO EVENT SHALL SPECTRUM BE LIABLE FOR ANY DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF ANY THIRD-PARTY SERVICES.

Customer's use of the Internet Service is subject to the following additional terms and conditions:

1. Minimum Equipment Requirements. Customer shall maintain certain minimum equipment and software to receive the Internet Service (see www.business.spectrum.com for the current specifications). The minimum configuration standards may change, and Spectrum will make reasonable efforts to support previously acceptable configurations; however, Spectrum is not obligated to continue to provide such support. Spectrum may supply Spectrum Equipment such as modems, gateways, routers, or wireless cards, for a fee, to operate the Internet Service. Spectrum reserves the right to provide service only to users with Spectrum-approved equipment. Customer acknowledges that such Spectrum Equipment may require updates and/or changes to the software resident in the Spectrum Equipment and that Customer may be required to perform such updates and/or changes. Customer hereby authorizes Spectrum to perform updates or changes, on-site or remotely from time to time as Spectrum deems necessary, in Spectrum's sole discretion. Customer will not connect any equipment, other than equipment authorized by Spectrum, to the Spectrum Network. When Spectrum installs the Internet Service, Customer will need a network interface card or adapter providing an Ethernet connection. Alternatively, Customer may connect to a networking device (commonly referred to as a router or gateway).
2. Software. At the time of installation of the Internet Service, Spectrum may provide Customer with common Spectrum or third-party software (e.g., a browser and plug-ins) to enable and enhance the Internet Service, subject to the license terms and restrictions in the Spectrum Service Agreement. Customer hereby represents and warrants to Spectrum that Customer owns the operating system software and associated use/license rights thereto for the computers that are connected to the Spectrum Network.
3. Internet Service Speeds. Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the Internet Service selected by Customer, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
4. Security. Customer shall take commercially reasonable security measures when using the Internet Service and assumes sole responsibility for use of the Internet Service and for access to and use of Customer Equipment used in connection with the Internet Service and Spectrum Network.
5. Electronic Addresses; Mailboxes. All non-vanity email addresses, email account names, and IP addresses ("Electronic Addresses") provided by Spectrum (and not through Customer's domain) are the property of Spectrum. Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses.

¹ Customers that purchased Internet services from Time Warner Cable Business Class, Brighthouse Networks, or Charter before June 11, 2017 may continue to receive the same Internet service plan, features, and supplemental services at the same prices offered as of June 11, 2017 ("Legacy Services") until such time as Spectrum discontinues the Legacy Services by written notice to such Customers. If Customer elects to receive Spectrum Business Internet Services available as of June 11, 2017, then Customer will no longer be eligible to receive any Legacy Services, including, without limitation, any supplemental services or features that may not be available as part of the Spectrum Business Internet Services. Please contact your Spectrum sales representative for further information.

(a) Mailboxes. Spectrum owns any and all mailboxes associated with the Internet Service and may reclaim such mailboxes at any time for any reason. Spectrum may also limit the number of new email addresses available per account and the number of email messages that may be sent within a 24-hour time period. Spectrum may lock inactive mailboxes and prohibit the mailbox from receiving new email messages. Customer acknowledges that upon termination of Internet Service, Spectrum will suspend all accounts associated with the Internet Service and delete the contents of all mailboxes, if any. Deleted content cannot be recovered. Email addresses are not permanently retired and become eligible to be reused at Spectrum's sole discretion.

(b) Mail Storage. In no event will Spectrum be responsible for maintaining, and Spectrum will not guarantee storage of, email for any period of time. Spectrum also reserves the right to enforce email storage limits.

(c) Cookies. Customer may access their Spectrum email account at <https://www.spectrumbusiness.net> or by using the Customer's software application (e.g., Outlook, Outlook Express, Apple Mail). When accessing email at <https://www.spectrumbusiness.net>, Customer must have its Internet browser configured to accept cookies. Spectrum will notify the End User if the browser is not configured to accept cookies.

6. Changes of Address. Spectrum may change addressing schemes, including email and IP addresses provided by Spectrum.

7. Acceptable Use Policy. Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at www.business.spectrum.com and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP.

8. Spectrum Business WiFi. Spectrum Business WiFi supported by a Spectrum-provided wireless router is a service available to certain Customers and provides wireless access to the Internet Service within the Service Location ("WiFi Network"), for which Customer may be charged a fee consistent with Spectrum's then-current practices. Customer must purchase Spectrum Internet Service in order to receive Spectrum Business WiFi. The Spectrum-provided WiFi router comes programmed with certain default settings and configurations for the WiFi Network. Customer may modify the default settings and configurations on the Spectrum-provided WiFi router although Spectrum recommends maintaining the default configuration and settings. Spectrum does not guarantee the security of the Spectrum-provided WiFi router and Customer's connection to the Internet Service via the WiFi Network. Customer understands and agrees that Customer is solely responsible for the security of its WiFi Network and must enable and use encryption in order to access Spectrum-provided applications. Customer understands that this service is intended to be used by the Customer and its End Users and that Spectrum accepts no liabilities for any third-party usage.

The Spectrum-provided WiFi router will collect and maintain certain information regarding access to and use of the WiFi Network, which information shall include but not be limited to device identifiers, device name, device type, applications and protocols, connections, and traffic flows. Such information will be used by Spectrum to provide the Internet Service and support, as well as for Spectrum's internal business analytics regarding the use of the Internet Service. Customer acknowledges and agrees that Spectrum shall have access to the network name and password associated with the Spectrum-provided WiFi router in order to provide support and diagnostic services. Spectrum reserves the right to modify the WiFi network name and password for the Spectrum-provided WiFi router in order to safeguard Internet security, the security and privacy of Customer's information, where required by law, or for other good cause to provide, upgrade, and maintain the Internet Service, and protect the network, other users of the Internet, or our customers and subscribers. Abusive, vulgar, offensive, inappropriate or profane WiFi Network names are prohibited and may be modified in Spectrum's sole discretion. Customer acknowledges that the Spectrum-provided WiFi router is Spectrum Equipment.

9. Spectrum Business WiFi Hotspot. Spectrum reserves the right to preconfigure the Spectrum-provided WiFi router to distribute a wireless Internet access point (i.e., a Spectrum Business WiFi Hotspot, a "WiFi Hotspot") separate from the WiFi Network. Any use of bandwidth from such wireless access point by third parties will not be considered to be use by the Customer for any purpose. Customer shall have the right to disable such WiFi Hotspot, and shall not be responsible for the security of the WiFi Hotspot.

(a) To be eligible to receive the WiFi Hotspot, Customer must be receiving Spectrum Internet Service. Subject to the foregoing, Spectrum will, and Customer grants Spectrum permission to, attach, install, maintain, operate, and upgrade WiFi-related equipment, cables and devices ("WiFi Equipment") on and within the Service Location. The WiFi Equipment will be operated by Spectrum, at no cost to Customer, in order to provide the WiFi Hotspot at the Service Location(s). Customer agrees to provide a standard power source for operation of the WiFi Equipment.

(b) Customer's use of the WiFi Hotspot is subject to the following additional terms and conditions:

- i. The WiFi Hotspot made available at Service Location(s) may be accessed by Customer and its End Users through their Spectrum accounts for no additional charge.
- ii. To access the WiFi Hotspot, Customer and its End Users and patrons must have a WiFi-enabled device that meets the technical specifications for the WiFi Hotspot.
- iii. Customer grants Spectrum the right to advertise, market and otherwise promote Customer's location(s) as a WiFi Hotspot access point(s), in any and all forms of media now known or hereafter developed, in Spectrum's sole discretion, and Customer grants Spectrum a license to use Customer's names, trademarks and logos in connection with such advertising, marketing and promotion.
- iv. Customer will not be entitled to receive any refunds or credits should the WiFi Hotspot be interrupted or fail, regardless of the length of time during which the WiFi Hotspot is unavailable.
- v. All WiFi Equipment constitutes Spectrum Equipment. Customer may not relocate or disconnect the WiFi Equipment.

10. Desktop Security Service. Desktop Security Service is made up of software and hardware components. Spectrum is not the manufacturer or supplier of any software or hardware components of the Desktop Security Service. Spectrum shall update the Desktop Security Service from time-to-time based on manufacturer-provided updates.

Attachment D

Fiber Internet Access Service ("FIA Service")

Fiber Internet Access: If Customer elects to receive the FIA Service, Spectrum shall provide Customer with a dedicated, scalable connection over a packet-based infrastructure with Internet service provider ("ISP") peering between Customer's data network identified on a Service Order and Spectrum's facilities.

FIA Service, or features of FIA Service, may not be available in all service areas. Spectrum's FIA Service is "On-Net" if it is provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with "Off-Net" services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third Party Services"). Third Party Services and Off-Net Services may be subject to additional terms and conditions.

Customer's use of the FIA Service is subject to the following additional terms and conditions:

1. **FIA Service Speeds.** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the FIA Service selected by Customer on the Service Order, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
2. **Bandwidth Management.** Spectrum shall have the right, but not the obligation, to (a) monitor traffic on its Network; and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by Spectrum) as Spectrum deems appropriate to efficiently manage the Spectrum Network. If Customer purchases Multi-Path FIA Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path FIA Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) "Path" shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) "Multi-Path" shall mean FIA Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.
3. **Acceptable Use Policy.** Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at <https://enterprise.spectrum.com> (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the Spectrum AUP.
4. **DDoS Protection Services.**
 - (a) This Section only applies if Customer elects to purchase DDoS Protection Service to enable detection of distributed denial of service ("DDoS") attacks, receive notifications of attacks, mitigation services, and post-event reporting of DDoS attack activity. Spectrum monitors Customer Internet traffic as it travels across Spectrum's Network to detect anomalies that are symptomatic of a volumetric DDoS attack, as reasonably determined by Spectrum (a "DDoS Attack"). Spectrum requires that Customer: (i) provide information regarding Customer's Internet traffic before Spectrum can provision the DDoS Protection Service; and (ii) cooperate with Spectrum to conduct mitigation testing in order to activate the DDoS Protection Service. After DDoS Protection Service activation, Spectrum will monitor Customer's Fiber Internet Access (FIA) network traffic flow for variations to the baseline traffic patterns. When the DDoS Protection Service detects an anomaly that is symptomatic of a DDoS Attack, the DDoS Protection Service alerts Spectrum Enterprise Technical Support. The DDoS Protection Service and associated countermeasures are configured to reduce disruption of Customer's legitimate traffic, but Customer may experience slower Internet traffic speed during a DDoS Attack. Spectrum will remove the countermeasures and redirect Customer's inbound network traffic to its normal path if Spectrum determines that the DDoS Attack has ended and there is no activity symptomatic of a DDoS Attack for an additional 4 hours. Customer may obtain status updates and reporting from Spectrum through a customer portal, or other means as determined by Spectrum. During the provisioning process, Customer may designate whether Spectrum is to provide "Proactive" or "Reactive" mitigation services as further described below. If Customer designated Proactive mitigation, Customer may switch to Reactive mitigation and if Customer designated Reactive mitigation, Customer may switch to Proactive mitigation, at any time during the Initial Order Term. Spectrum will use commercially reasonable efforts to implement Customer's change request within five (5) business days.
 - (b) **DDoS Proactive Mitigation Services:** If Customer designates Proactive mitigation services, following service activation, Spectrum will automatically implement countermeasures upon Spectrum's detection of a DDoS attack.

(c) DDoS Reactive Mitigation Services: If Customer designates Reactive mitigation services, Customer understands that Spectrum will not automatically initiate any DDoS countermeasures unless and until a Customer representative calls Spectrum Enterprise Technical Support to notify Spectrum that Customer may be experiencing a DDoS Attack. If Spectrum Enterprise Technical Support has an existing ticket indicating detection of a DDoS Attack, Spectrum will use commercially reasonable efforts to initiate countermeasures within 15 minutes.

(d) Customer Requirements: Customer must purchase Spectrum's FIA Service to be eligible to purchase the DDoS Protection Services, which FIA Service may be pre-existing or ordered at the same time as the DDoS Protection Service. DDoS Protection Service is provided on a per circuit basis. Spectrum's ability to provide the DDoS Protection Services is contingent on (i) Customer providing accurate and timely information to Spectrum, including IP addresses and (ii) Customer-provided equipment and software being compatible with the DDoS Protection Service as determined by Spectrum in its sole discretion (e.g., Spectrum will not be able to provide a 3GB DDoS Mitigation Service if Customer has a 1GB Firewall).

(e) Disclaimers: Customer acknowledges the following additional terms for the DDoS Protection Services:

- i. SPECTRUM DOES NOT SUPPORT, AND SHALL HAVE NO OBLIGATION TO PROVIDE, MITIGATION WITH RESPECT TO IPv6.
- ii. DDoS mitigation may only mitigate the effects of certain types of DDoS attacks and is not designed as a comprehensive security solution. When Customer Internet traffic is traveling over the Spectrum Network, Spectrum makes no guarantees that only DDoS attack traffic will be prevented from reaching the destination or that only legitimate traffic will reach Customer.
- iii. Spectrum makes no warranty, express or implied, that: (1) for Customers subscribing to the DDoS Automatic Protection Service, all DDoS attacks will be detected; (2) mitigation services will successfully mitigate the incident, particularly if the DDoS attack generates a traffic volume that exceeds the amount of traffic that Spectrum can divert; or (3) the DDoS Protection Services will be uninterrupted or error-free.

(f) Termination:

- i. If Customer terminates any FIA Service for which Customer has also subscribed to DDoS Protection Service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding DDoS Protection Service and Customer shall pay any applicable Termination Charges in accordance with the Service Agreement.

Attachment E

WIDE AREA NETWORK (“WAN”) SERVICES

Ethernet, Cloud Connect and Wavelengths

1. **Ethernet Service:** Spectrum will provide Ethernet Services for Customer locations connected over coaxial and/or fiber-optic cable. Connectivity is established between two or more Customer end-points under a unique customer topology. Spectrum will install the coaxial or fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge or network interface device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Ethernet Services are “On-Net” if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with “Off-Net” services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

2. **Cloud Connect Service:** Spectrum will provide a Cloud Connect Service allowing Customer a private, layer 2 connectivity to cloud service providers (CSPs). Therefore, all terms herein shall apply to the Cloud Connect Service in addition to the Ethernet Service.

3. **Wavelengths Service:** Spectrum will provide Wavelengths for Customer locations connected over fiber-optic cable. Wavelengths are a high speed (10Gbps and 100Gbps), optical data transport solution that uses dense wave division multiplexing (DWDM) technology, delivering low-latency bandwidth across Spectrum Enterprise's dense fiber network. Connectivity is established between two Customer end-points in a point-to-point topology. Spectrum will install the fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Wavelengths are “On-Net” if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with “Off-Net” services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

4. **Additional terms of use:** Customer's use of Ethernet Service, Wavelength and, as applicable, Cloud Connect Service, are subject to the following additional terms and conditions:

- (a) If Customer purchases Multi-Path Ethernet Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path Ethernet Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) “Path” shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) “Multi-Path” shall mean Ethernet Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.
- (b) Spectrum shall have the right, but not the obligation, to (a) monitor traffic on the Spectrum network, in its sole discretion; and (b) monitor Customer's bandwidth utilization as Spectrum deems appropriate to efficiently manage its Network.
- (c) Customer's use of Ethernet and/or Wavelengths Services is presumed by Spectrum to be jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed use “10% Rule” (47 C.F. R. 36.154, 4 FCC Rcd. 1352). It is Customer's sole responsibility to notify Spectrum if Customer's use of the Service is not jurisdictionally interstate pursuant to the 10% Rule and, so long as Customer's use of the Service remains not jurisdictionally interstate, Customer must certify at least annually that this condition remains in effect, using the form and format available upon request from Spectrum. If Customer fails to provide such certification or if the Customer's certification is inaccurate or invalid, Customer shall be liable for any resulting fees, fines, penalties and/or costs incurred by Spectrum.

In addition, if Spectrum determines that Customer's use of the Ethernet Services is likely to be deemed not to be jurisdictionally interstate, and therefore that Spectrum's provision of the Ethernet Services is likely to put Spectrum or its licenses, permits or business at risk, or otherwise cause financial, regulatory or operational problems for Spectrum, then Spectrum may immediately suspend the provision of any or all Ethernet Service under any or all affected Service Orders until such time as either (a) Customer provides Spectrum with satisfactory assurances that Customer's use of Ethernet Services shall be deemed to be jurisdictionally interstate or (b) Customer is otherwise brought into full compliance with any applicable laws and regulations. Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Indemnified Parties against any and all third party claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by any Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Spectrum Indemnified Parties, to the full extent that such arise from or relate to any fees, fines or penalties incurred by Spectrum as a result of Customer's violation of the 10% Rule.

Attachment F

Managed Services

Software-Defined Wide Area Networking Service (“SD-WAN Service”), Managed WiFi Service, Managed Router Service (“MRS”), Managed Security Service (“MSS”) and Cloud Security (“vSecurity”)

If Customer elects to purchase a Managed Service, Spectrum shall provide Customer with any required customer premises equipment (“CPE”) through which Customer can receive the purchased service(s) at Customer's Service Location(s) across Customer's network, as may be more particularly described and set forth in the applicable Service Order.

Customer's use of any of the Managed Services, as applicable, are subject to the following additional terms and conditions:

The Managed Services may include software, firmware, and hardware components supplied by Spectrum or third parties. Spectrum is not the manufacturer or supplier of any software or hardware components of the Managed Services. Spectrum will update the Managed Service from time to time based on manufacturer-provided updates.

Technical Configuration Questionnaire. Spectrum may request Customer complete a Technical Configuration Questionnaire. Customer agrees that Spectrum is relying on Customer's configuration information in order to provide the Managed Service, and that Spectrum shall have no responsibility for any resulting loss or damage resulting from Spectrum's reliance on and use of, Customer-provided configuration information. If Customer requests that Spectrum modify the configuration of the SD-WAN Service or Virtual Security Service in accordance with specifications provided by Customer that deviate from those specifications in the Technical Configuration Questionnaire, then Spectrum's sole obligation will be to implement the configuration settings requested by Customer, and Spectrum shall have no responsibility or liability for any resulting loss or damage incurred by Customer or any third-parties arising directly or indirectly as a result of any such Customer-requested configuration modifications.

Security Limitations. SPECTRUM DOES NOT PROVIDE MONITORING OF SECURITY EVENTS, SECURITY EVENT MITIGATION OR ADVICE REGARDING SECURITY ISSUES OR THREATS IN CONNECTION WITH THE MANAGED SERVICES. SPECTRUM IS NOT RESPONSIBLE FOR SECURITY BREACHES THAT OCCUR DUE TO CUSTOMER'S USE OF ANY MANGED SERVICE CPE OR MANAGED SERVICE, OR FOR ANY MALICIOUS DATA THAT MAY BE TRANSMITTED OVER THE PROVIDED NETWORK.

SOFTWARE DEFINED WIDE AREA NETWORK (“SD-WAN”) SERVICE: This section applies only if the Customer purchases the SD-WAN Service:

- (a) Spectrum shall provide Customer with one or more SD-WAN customer premises equipment (“CPE”) through which Customer can deploy and use Virtual Private Network connectivity and associated virtualized network functions at Customer's Service Location(s) across Customer's network, as may be more particularly described and set forth in the applicable Service Order.
- (b) Customer is responsible for Internet connectivity at all Customer's Service Location(s) in order for Customer to utilize the SD-WAN Service. If Internet connectivity at a Service Location for any reason at any time suffers from degradation or is unavailable, then the SD-WAN Service at such Service Location may be degraded or inoperable; and SPECTRUM SHALL HAVE NO LIABILITY FOR ANY RESULTING LOSS OR DAMAGE FROM SUCH DEGRADATION OR INOPERABILITY OF THE SD-WAN SERVICE.

MANAGED WIFI SERVICE: This section applies only if the customer purchases the Managed WiFi Service.

- (a) Spectrum will provide a managed WiFi solution with wireless access points (“WAPs”) deployed at the designated Service Location to enable designated users of the Customer's choice to wirelessly access the Internet as more specifically set forth in a Service Order. Managed WiFi Service or certain features, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion
- (b) Internet Access. Spectrum may provide Managed WiFi Service to locations that use a centralized Internet access configuration where Spectrum will not be the primary Internet access provider if Customer purchases an

Internet access Service for the sole purpose of providing Spectrum Enterprise out of bandwidth management ("OOB"). This OOB service would only provide connectivity to the Managed WiFi Service equipment (switches and controllers).

- (c) Connectivity to Local Area Networks. Configuration of the Managed WiFi Service will be as agreed in the WiFi questionnaire completed by the Parties. Managed WiFi Service may provide a separate SSID for employee Internet access if specified on the WiFi questionnaire. A second WLAN will be created on the wireless network with its own VLAN assigned. The aggregation switch will be configured to hand off an Ethernet Service port to Customer. In this scenario, network functions (DHCP and NAT, for example) may be handled by Customer's LAN. Customer will need to train and engage Customer's staff for all ongoing support issues. The Managed WiFi Service does not include support for connectivity to any device (printers, laptops, computers, routers, etc.).

MANAGED ROUTER SERVICE ("MRS"): This section only applies if the customer purchases the Managed Router Service.

- (a) Spectrum will provide a managed router solution with a router deployed at the designated Service Location configured according to the Questionnaire. Managed Router Service or certain features, may not be available in all service areas and may change from time to time.
- (b) Connectivity. The Managed Router Service is only available when connected via Spectrum FIA or Spectrum Ethernet services including in-network and Type II connections. A 3rd party connection can be used as a secondary connection where Spectrum is providing the primary connection.
- (c) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the Managed Router Service, leaving the Managed Router only connected to non-Spectrum service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding Managed Router Service and Customer shall pay any applicable Termination Charges in accordance with the Service Agreement. In all cases, the Managed Router Service cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

MANAGED SECURITY SERVICE ("MSS"): This section only applies if the customer purchases the Managed Security Service.

- (a) Spectrum will provide a managed firewall solution with a firewall deployed at the designated Service Location configured according to the Questionnaire. Managed Security Service or certain features, may not be available in all service areas and may change from time to time.
- (b) Connectivity. The Managed Security Service is only available when connected via Spectrum FIA or Spectrum High Speed Internet services including in-network and Type II connections. A 3rd party connection can be used as a secondary connection where Spectrum is providing the primary connection.
- (c) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the Managed Security Service leaving the Managed Security Service only connected to a non-Spectrum service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding Managed Security Service and Customer shall pay any applicable Termination Charges in accordance with the Service Agreement. In all cases, the Managed Security Service cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

CLOUD SECURITY ("vSECURITY") SERVICE: This section only applies if the customer purchases the vSecurity Service.

- (a) The vSecurity Service delivers firewall capabilities through a virtual firewall hosted in a Spectrum Data Center. The Data Center location is based on the geographic location of the customer site(s) and other considerations made at Spectrum's sole discretion.
- (b) Connectivity. The vSecurity Service is only available when connected via Spectrum Ethernet, Spectrum FIA, and SD-WAN services including in-network and Type II connections.
- (c) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the vSecurity Service then Customer shall be deemed to have terminated the corresponding vSecurity Service and Customer shall pay any applicable Termination Charges in accordance with the Service Agreement. In all cases, the vSecurity Service cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

Attachment G

Wireless Internet Access Service

Spectrum Wireless Internet Access Service: Wireless Internet access service is a fixed-location data service, not a voice service that is implemented using 4G LTE Internet access technology ("WIA Service"). The network used to transmit the data services that support WIA Service is owned and operated by a licensed commercial mobile network operator(s) and not Spectrum (the "Third-Party Network"). WIA Service may not be available in all Spectrum service areas.

Spectrum offers two types of WIA Service: **Wireless Internet** and **Wireless Internet Backup**. Customer's use of Wireless Internet and/or Wireless Internet Backup Service is subject to the following additional terms and conditions:

1. **Wireless Internet:**

(a) **Plan Terms.** Wireless Internet is available in multiple service plans with either unlimited data usage per month or with a data allowance limit per month. For Wireless Internet ordered with unlimited data usage, Spectrum reserves the right to revise the wireless data rate of such service plan to 128Kbps when Customer has used 70GB of data within a single monthly billing cycle. At the start of the next billing cycle, the data usage and data speed will reset. For Wireless Internet ordered with a data allowance, once the data allowance is reached in a given monthly billing cycle, excess data charges may apply as outlined in Section 4 below.

(b) **Data Sharing; Excess Data Charges.** If Customer purchases more than one of the same Wireless Internet service plans (excluding unlimited plans), all such same service plans will participate within the same data pool ("Data Pool"). For example, if Customer purchases 3-1GB Wireless Internet service plans and 2-5GB Wireless Internet service plans, then Customer will have two separate Data Pools, a 1GB service plan Data Pool and a 5GB service plan Data Pool. The maximum Data Allowance for a Data Pool is calculated as the Wireless Internet service plan data allowance multiplied by the number of service plans. Any unused data in the maximum Data Allowance for a single service plan within the Data Pool is first applied to the overages for the service plan with the lowest overage need and then to the next lowest overage service plan until the maximum Data Allowance has been applied. If the total data usage is less than the maximum Data Allowance for the Data Pool, there is no excess usage charge. If, however, all of the service plans within the Data Pool collectively exceed the maximum Data Allowance, then Customer shall be subject to additional Service Charges with respect to the excess usage as stated on the applicable Service Order. Unused Data Allowance in a given billing cycle does not "roll over" to future billing cycles. Wireless Internet service unlimited service plans and Wireless Internet Backup services are not eligible for participation within a Data Pool.

2. **Wireless Internet Backup:**

Wireless Internet Backup is a secondary Internet service and may have limited functionality during failover of the primary Internet service. Customer may only order Wireless Internet Backup with and for the same Order Term as a new or existing FIA Service (up to a maximum of 100 Mbps) provided by Spectrum, and not a third party provider, for the same Service Location, which service shall be cancelled if the FIA Service is terminated for any reason. The wireless data rate will not exceed 10 Mbps. Spectrum may terminate the Wireless Internet Backup Service if Spectrum determines, in its sole discretion, that: (a) Spectrum is unable to provide the Wireless Internet Backup at the requested Service Location; or (b) Customer is using the Wireless Internet Backup as a primary Internet service. Spectrum's termination of the Wireless Internet Backup Service shall have no effect on the FIA Service, which Service Order will remain in effect.

3. **WIA Billing and Data Usage.** The Service Charges will be billed in the amounts stated on the applicable Service Order. Spectrum invoices for monthly recurring Service Charges, plus applicable taxes, fees, and surcharges, in advance on a monthly basis. All usage-based charges will be invoiced monthly in arrears. Except as set forth below with respect to data sharing, if a Service Order for Wireless Internet sets forth a maximum "Data Allowance" (defined below), then Customer shall be subject to the additional Service Charges with respect to such excess usage that is stated on the applicable Service Order. "Data Allowance" means the aggregate number of gigabytes of data that may be sent and received using the Wireless Internet services in a single monthly billing cycle under the applicable Wireless Internet service plan, rounded up to the nearest gigabyte.

4. **Service Quality.** Spectrum selects the Third-Party Network from multiple network operators for each Service Location. Customer acknowledges that (i) WIA Service may be unavailable if the wireless device used in providing WIA Service is not in range of a transmission site; and (ii) there are many factors that may impact availability and quality of WIA Service, including without limitation, network capacity, signal strength, terrain, trees, placement of buildings, environmental conditions, the characteristics of the physical wireless device and any device to which it is attached, government regulations,

maintenance, or other activities affecting service operations; (iii) service interruptions may occur as a result of acts of third parties that damage or impair the Third-Party Network or in connection with modifications, upgrades, relocations, repairs or other similar activities conducted by the Third-Party Network operator; and (iv) data delays and omissions may occur. Spectrum does not guarantee any bandwidth specifications and actual Internet upload and download speed, also known as throughput rate, may vary. The Third-Party Network operators may also suspend services from time-to-time. Customer waives all rights and claims against Spectrum and the Third-Party Network operators related to, or the result of, the unavailability OR QUALITY of WIA SERVICE AND/OR the Third-Party Network.

5. **Power Disruptions.** The WIA Service equipment is electrically powered and will not work in a power outage. Spectrum may supply Customer with a battery backup for use in the event of a power outage in connection with the Wireless Internet Backup service. WIRELESS INTERNET ACCESS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, WIRELESS INTERNET ACCESS SERVICES WILL NOT WORK.

6. **Acceptable Use Policy; Third Party Network Terms.**

(a) Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP"), found at www.enterprise.spectrum.com (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP. The AUP shall apply even though the traffic is delivered over a Third-Party Network.

(b) Customer shall not resell the WIA Service, either alone or as part of a solution, to end users. Customer must also comply with the applicable service terms and conditions and acceptable use and other policies of the Third-Party Network operators ("Third-Party Terms") found at:

AT&T Internet of Things Wireless Communications Service Guide
http://serviceguidenew.att.com/sq_flashPlayerPage/M2M

Verizon ThingSpace Terms and Conditions
<https://thingspace.verizon.com/legal/terms-and-conditions/>

The Third-Party Terms may be amended, revised, or supplemented from time to time in the Third-Party Network operator's sole discretion. Customer is solely responsible to verify the applicable Third-Party Terms, including any changes to such Third-Party Terms.

(c) To the extent that the Third-Party Terms or any acceptable use policy are inconsistent with the Spectrum Terms of Service or AUP, the Spectrum Terms of Service and AUP shall control.

7. **Security; Use Restrictions.** Customer shall take commercially reasonable security measures when using the WIA Service, and Customer assumes sole responsibility for use of the WIA Service and for access to and use of Customer Equipment used in connection with the WIA Service. If Customer Equipment is lost or stolen, Customer shall immediately notify Spectrum in writing so that Spectrum can suspend the WIA Service with respect to such Customer Equipment in order to prevent unauthorized use of the WIA Service. Until Spectrum receives Customer's notification, in a manner directed by Spectrum, of lost or stolen Customer Equipment, Spectrum is entitled to assume that any use of the WIA Service in connection with such device is authorized by Customer and Customer shall be responsible for any such use and associated charges. Customer shall not use WIA Services for any remote medical monitoring or any other activity that is subject to the Health Insurance Portability and Accountability Act. Due to regulatory requirements, Customer must obtain Spectrum's approval before installing, deploying or using any regeneration equipment or similar mechanism (for example, a repeater) to originate, amplify, enhance, retransmit or regenerate WIA Services.

8. **Termination.**

(a) If Customer cancels a WIA Service, in addition to any applicable Termination Charges, Customer shall pay all Service Charges for the WIA Service through the end of the monthly billing period during which the WIA Service was cancelled, including charges for exceeding any data usage limitations that applied to a WIA Service plan, and applicable taxes and fees.

(b) When a line of service is terminated, Customer shall ensure that the Equipment that was activated on that line ("Terminated Equipment") does not register or attempt to register after such termination on the Third-Party Network on which the WIA Service had been provided. Spectrum shall have the right to use over-the-air means to access Terminated Equipment for the purpose of downloading software or the Third-Party Network operator's then-current preferred roaming list designed to disable Terminated Equipment to prevent attempts to contact the Third-Party Network.

(c) Spectrum may terminate WIA Service immediately upon notice to Customer if Spectrum is no longer permitted by the Third-Party Network operator to provide WIA Service to its customers for any reason.

9. **NO THIRD-PARTY LIABILITY.** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE THIRD-PARTY NETWORK OPERATORS OR THEIR AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN SPECTRUM OR ITS LICENSORS AND THE THIRD-PARTY NETWORK OPERATORS. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT : (A) THE THIRD-PARTY NETWORK OPERATORS AND THEIR AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR; (B) DATA TRANSMISSIONS AND MESSAGES MAY BE DELAYED, DELETED OR NOT DELIVERED, (C) THE SERVICE IS A FIXED-LOCATION DATA SERVICE, NOT A VOICE SERVICE, AND 911 OR SIMILAR EMERGENCY CALLS MAY NOT BE COMPLETED, AND (D) THE THIRD-PARTY NETWORK OPERATORS CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE CONNECTIVITY SERVICES.

Enterprise Terms of Service v 200427

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AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.F.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Edward Wylie, Assistant City Manager

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Consideration and action, if any, on final close out and amendment for additional scope and time for Newcome Park Phase I and II

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: Newcome park Phase I and II are complete. The final change order is for additional scope and items deleted from the original contract for Value Engineering purposes. The construction manager came in after the plans were substantially complete. Also additional items were added such as crushed granite, handrails and roofs. Additional manpower was also requested to clean up and open the park for Posada and in anticipation of Hubfest

Financial Consideration: \$264,676.96

Staff Recommendation: Staff in recommending approval of the change order for additional time and costs

Alternatives:

ROUTING:

Edward Wylie
Patricia Rigney
Karla Moya
City Management Office

Created/Initiated - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
Final Approval - 5/15/2020



May 12, 2020

Ed Wylie, Interim City Manager
City of Pharr
118 S. Cage Blvd.
Pharr, Texas 78577

Re: 0017 C1763 – Newcome Park Phase I and II

Dear Mr. Wylie,

We are closing out this project and we are attempting to reconcile all additional expenditures, additional scope items, modifications to original scope and changes. Below is a list of all the additional costs incurred during the construction of these park projects. This increases our contract amount to \$2,170,959.46 including our contractually agreed upon fees and overhead.

Additionally, we are requesting that the contract duration be adjusted to include a completion date of April 28, 2020. Original duration was 210 days, but we are not clear on the start date since this was split in to two phases and there were breaks in between due to city events.

Division 2

Fencing/Gates - **\$29,469.00** American Fence

Fencing and gates at dumpster pad, transformer and pool equipment were not included in the original GMP pricing because we did not receive any pricing for this scope of work. This fence was bought out with steel posts and Trex board material after the GMP was issued.

Division 2

Crushed Granite - **\$3,659.99** Southern Stone

Granite was not included in any of the pricing proposed by subcontractors for the original GMP. This was bought out and furnished after the initial GMP was issued.

Division 2

Temporary Fencing - **\$3,950.00** Central Fence & Supply

Temporary fence on the perimeter of the property was originally installed by the City of Pharr. Davila Construction was asked to take over rental and maintenance of the temporary fencing during the construction phase. This cost was not included in the original GMP.

Division 2

Removal of debris - **\$1,560.00** Davila Construction

Unusable soil with debris and rock had to be removed from the property in order to allow for fine grading. This cost was not included in the original GMP as it was not part of any subcontractor's scope.

Division 3

Concrete Pump - **\$4,155.25** Brownwood Pumps

Concrete pumps were only necessary due to the overhead powerlines that were not removed. Due to the interference, pumps had to be rented in order to place the concrete in certain areas that were inaccessible.



Division 5

Handrails - **\$25,777.00** Tenzo Shades

Handrails were not included in the original GMP pricing. Handrails were bought out after initial GMP was issued.

Division 6

Canopy structures – Original budgeted amount was \$150,000 in previous amendment. This line item was reduced in order to accommodate our CMAR fee and overhead based on the increase in the contract amount. Remaining budget was \$92,974.92

\$83,266.54	Trex Material including screws, lumber, underlayment, roof decking. Lowes/Home Depot
\$45,000.00	Labor for wood framing and installation of Trex Decking. Davila/Saldana
\$16,661.00	Painting Materials and labor. Sherwin Williams/Davila
\$38,000.00	Metal Roofing. Tenzo
\$1,236.76	Gutters. ABC Supply
Total Cost	\$184,164.30
Overage	\$91,189.38

Division 9

Ceramic Tile - **\$12,132.50** CM Tile

This amount is the overage on allocated ceramic tile estimate for restrooms.

Division 9

Floor Sealing - **\$2,100.00** CM Tile

This amount is the cost for the floor sealing. Floor Sealing was not part of the original GMP pricing.

Division 22

Plumbing - **\$13,990.80** Davila/Home Depot/Lowes/Morrison Supply/Bohrick

This amount is the overage on allocated estimate for plumbing materials and labor including bathroom accessories, mirrors and backflow preventors.

Expediting for Posada December 2019

Manpower increase and expedited labor for preparations and cleanup - **\$17,365.00** Davila

Faux vines for southside wall - **\$818.59** Gilisa

Expediting for Hub Fest 2020

Manpower increase and expedited labor for preparations and cleanup - **\$23,354.23** Davila

Rental Equipment - **\$2,070.60** Comar



Summary of Costs

Division 2	\$29,469.00	Fencing/Gates
	\$3,659.99	Crushed Granite
	\$3,950.00	Temporary Fencing
	\$1,560.00	Removal of Debris
Division 3	\$4,155.25	Concrete Pump
Division 5	\$25,777.00	Handrails
Division 6	-\$92,974.92	Canopy Structures
	\$83,266.54	Trex Materials
	\$45,000.00	Framing Labor
	\$16,661.00	Painting Materials and Labor
	\$38,000.00	Metal Roofing
	\$1,236.76	Gutters
Division 9	\$12,132.50	Overage on tile for RR
	\$2,100.00	Floor sealing for RR
Division 22	\$13,990.80	overage on plumbing
Expediting for Posada	\$17,365.00	Labor
	\$818.59	Faux vines south side
Expediting for Hub Fest	\$23,354.23	Labor
	\$2,070.60	Rental Equip
Amendment Subtotal Cost	\$231,592.34	
Credit from previous CMAR fee	-\$1,989.42	
GC/OH/Fee this amendment	\$28,949.04	
CMAR Fee for Amendment #5	\$6,125.00	
Total Amendment Cost	\$264,676.96	
Current Contract	\$1,906,282.50	
Final Contract Amount	\$2,170,959.46	



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.G.

DATE SUBMITTED: May 15, 2020

MEETING DATE: May 18, 2020

FROM: Edward Wylie, Assistant City Manager

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Consideration and action, if any, on final close out and amendment for additional scope and time for the Jose "Pepe" Salinas Civic Center.

Classification: Regular

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue: The Civic Center is substantially complete. The final change order is for additional scope and items deleted from the original contract for Value Engineering purposes. The construction manager came in after the plans were substantially complete. Also additional items were added such as canopies, cabinets fire line and original lighting.

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Edward Wylie
Patricia Rigney
Karla Moya
City Management Office

Created/Initiated - 5/15/2020
Approved - 5/15/2020
Approved - 5/15/2020
Final Approval - 5/15/2020



May 12, 2020

Ed Wylie, Interim City Manager
City of Pharr
118 S. Cage Blvd.
Pharr, Texas 78577

Re: 0017 C1768 - Jose "Pepe" Salinas Civic Center Renovation & Parks and Recreation Building

Dear Mr. Wylie,

We are closing out this project and are at a point where all additional expenditures, additional scope items, modifications to original scope, and final buyout can be reconciled. Below is a list of all the additional costs incurred during the construction and renovation of these buildings. This increases our contract amount to \$4,125,462.45 including our contractually agreed upon fees and overhead.

Additionally, due to the coordination of additional scope and necessary buyout we will need to include an adjustment to the contract duration from 210 days to 599 days. This is an addition of 389 calendar days and the substantial completion date would be adjusted to May 15, 2020.

Division 2 – Rerouting and installation of underground service entrances to buildings
DeAlba Plumbing - **\$20,040.00**

Division 3 – Polished concrete – was not included in original \$3.2M price.

CM Tile & Constr. – Civic Center	\$5,950.00
CM Tile & Constr. – Parks & Rec	\$33,800.00
Total for polished concrete -	<u>\$39,750.00</u>

Division 3 – Concrete footings and columns for canopies –Concrete sidewalk and misc. site concrete

Davila Labor for canopies/columns	\$50,096.00
Davila Labor for site concrete	\$19,839.35
Concrete, reinforcement and access.	\$42,000.00
Total for site concrete -	<u>\$111,935.00</u>

Division 5 – Handrails and railings – Not included in \$3.2M price.

Tenzo - **\$8,577.00**

Division 5 – Exterior Canopies – Canopies were excluded from the \$3.2M price.

Strong Steel – Steel structures and metal roof	\$85,000.00
Synergy – Painting of steel canopies	\$15,000
Division 5 total -	<u>\$100,000.00</u>

Division 6 – Cabinetry – Cabinetry was not included in the \$3.2M price

Millers Millwork	\$76,407.00
Deduct \$2,847 paid by previous amendment. Total cost for division 6 -	<u>\$73,560.00</u>



Division 7 – Thermal insulation & Fluid Applied air barrier system were not included in the \$3.2M price

VES – Thermal insulation	\$37,500.00
SLR – Fluid applied air barrier system	\$75,446.00
Deduct \$32,500 already included in budget SOV – Total overage for Division 7 -	<u>\$80,446.00</u>

Division 8 – modifications required due to existing conditions on civic center building

G&S Glass exterior framing modifications	\$1,440.00
G&S Glass end wall conditions	\$1,532.00
H&H Doors – Added door for riser room	\$2,335.00
H&H Doors – Custom laminate doors	\$8,840.00
Total for Division 8 -	<u>\$14,147.00</u>

Division 9 – Terrazzo – Terrazzo work was not included in \$3.2M price

CM Tile & Constr. – Civic Center	<u>\$24,412.50</u>
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Division 10 – Baby changing stations were not included in base prices

Refco -	<u>\$2,200.00</u>
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Division 21 – Fire line -Fire Line was not included in the \$3.2M price.

Texas Fire Guard -	<u>\$26,880.00</u>
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Division 23 – HVAC modifications at entry and ductwork for RTU-1

Texas SMAC	\$4,800.00
Texas SMAC	\$7,500.00
Texas SMAC	\$9,225.00
Total for Division 23 -	<u>\$21,525.00</u>

Division 26 – Electrical Changes

D&F – Civic Center changes	\$2,412.00
D&F – Parks & Rec	\$11,872.00 VE fixtures were included in original price.
D&F – Civic Stage edge light add	\$4,443.00
D&F – Data Cabling	\$4,936.00
D&F – Fiber optic cabling	\$1,878.00
Total for Electrical changes -	<u>\$25,541.00.</u>

Room 127 was not included in the \$3.2M Price. Original cost estimates associated with this room totaled \$71,044.00 from spreadsheet dated October 29, 2018. During the buyout process we were able to get this cost included within the \$3.2M budget using the remaining contingencies and costs associated are reflected on the schedule of values. To clarify, there are no additional charges for Room 127.



Summary of Costs

Division 2	\$20,040.00
Division 3 Polished concrete	\$39,750.00
Division 3 Site Concrete	\$111,935.00
Division 5	\$108,577.00
Division 6	\$73,560.00
Division 7	\$80,446.00
Division 8	\$14,147.00
Division 9	\$24,412.50
Division 10	\$2,200.00
Division 22	\$26,880.00
Division 23	\$21,525.00
Division 26	\$25,541.00
Amendment Subtotal Cost	\$549,013.50
GC/OH/Fee	\$74,116.82
Subtotal	\$623,130.32
*Credit from previous Amendment	-\$37,667.87
 Total Amendment Cost	 \$585,462.45
 Current Contract	 \$3,540,000.00
Total Amendment Cost	\$585,462.45
Final Contract Amount	\$4,125,462.45

*Extended General Conditions from previous Amendment - \$144,000 Exceeded the contract percentage for pre-construction, general conditions, overhead and fee – This should have been \$45,900 for additional GC's to accommodate the additional cost plus the cost of the required security due to repeated vandalism on the property - \$43,991.26 for security. Total cost should have been \$89,891.26 plus the additional TXU Energy electric service of \$16,440.87 for the months of September 2019 to February 2020.



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 8.A.

DATE SUBMITTED: May 13, 2020

MEETING DATE: May 18, 2020

FROM: Patricia Rigney, City Attorney

DEPARTMENT: Legal

DIRECTOR:

Agenda Item: Consultation with City Attorney on D&M Ventures, LLC v. City of Pharr, Texas, Cause No. C-3205-16-E, in the 275th Judicial District Court of Hidalgo County, Texas.

Classification: Closed Session

(* If closed session, City Attorney must review and approve.)

Exclude Material from Public Packet? No

Reason:

Issue:

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Patricia Rigney
City Management Office

Created/Initiated - 5/13/2020
Final Approval - 5/15/2020