



**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, JUNE 1, 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.

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. PUBLIC HEARINGS:

A) PUBLIC HEARING ON DEVELOPMENT SERVICES CASES: *(Ordinance No. O-2019-31). A registered speaker during the public hearing may not exceed 1.5 minutes when addressing the board. A sign-in form for participation in public a hearing shall be promulgated by the city clerk and be made available at the city clerk's office. The public hearing sign-in form shall include the person or entity's name, address, telephone number, other contact information, organization if applicable, and other notices, authorizations, and acknowledgements as may be allowed by law from time to time. No registered speaker may be allowed to address the governing body once the public hearing has closed.*

4. 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) City Engineer's Report.

5. 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 18, 2020 Regular Called Meeting.
(ADMINISTRATION)

B) Consideration and action on Development Services Cases:

1. Las Pupusas Del Itacate, LLC. is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being 0.054 acres out of Lot 1A, Tim Development Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 807 South Jackson Road, Suite 6. **CUP#180318**

2. Juan F. Garza, d/b/a Muelle 37, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being a 0.073-acre tract of land, more or less, out of Lot 2, Browning Commercial Area Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 1000 North Cage Boulevard, Suite A. **CUP#150325**

3. Paradise Bar and Grill LLC, dba Cantina Bar and Grill, is requesting renewal of the Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being Lot 187, Valle De La Primavera Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 6905 South Jackson Road. **CUP#170209**

REGULAR AGENDA - OPEN SESSION:

6. ORDINANCES AND RESOLUTIONS:

A) 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)

B) 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)

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 II (Cold Units) at Pharr International Bridge, CSJ: 0921-02-425. **(TABLED)** (ENGINEERING)

D) Consideration and action if any, on Resolution authorizing the City of Pharr to submit a grant application to the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) for its Fiscal Year 2020 Assistance to Firefighters Grant Program - COVID -19 Supplemental. (FIRE)

E) Consideration and action if any, on Resolution authorizing the City of Pharr to submit a grant application to the U.S. Department of Homeland Security Federal Emergency Management Agency (FEMA) for its 2019 Staffing for Adequate Fire and Emergency Response (SAFER) Grant. (FIRE)

F) Consideration and action, if any, on Resolution appointing/reappointing two (2) members to the Parks and Recreation Advisory Board. (PARKS)

G) Consideration and action, if any, on Resolution appointing/reappointing three (3) members to the Keep Pharr Beautiful Committee. (PARKS)

H) Consideration and action, if any, on Resolution directing staff to initiate municipal annexation procedures. (DEVELOPMENT SERVICES)

7. ADMINISTRATIVE:

A) Consideration and action, if any, on acceptance of the City of Pharr Hi-Line 16-in. Waterline Project and authorization to release final payment and retainage in the amount of \$40,947.98. (Project #1819-60-583-C015-051) (ENGINEERING)

8. PURCHASING:

A) Consideration and action, if any, on the purchase of rescue tools for the new Fire Department Rescue Truck from Municipal Emergency Services through HGAC pricing in the amount of \$87,301.49. (Project No. 1920-01-515-P023-001) (FIRE)

9. CONTRACTS/AGREEMENTS:

A) Consideration and action, if any, on Business Associate Addendum (BAA) with Hidalgo County Health and Human Services Department. (POLICE)

B) Consideration and action, if any, awarding Supply Contract for the Traffic Signal Loop Detector Replacement Project. (Bid No.1920-40-510-C036-034) (ENGINEERING)

AGENDA REGULAR MEETING
June 1, 2020

C) Consideration and action, if any, authorizing City Manager to amend contract with TEDSI Infrastructure Group Inc. for Construction Support Services for the Construction of the Second BSIF Exit. (Project #1718-01-528-0033) (ENGINEERING)

D) Consideration and action, if any, on Donation Acceptance Agreement with the United States Government for the Pharr/Reynosa International Bridge-FY16 Donation Acceptance Program (DAP). (ENGINEERING)

E) Consideration and action, if any, authorizing City Manager to enter into and negotiate an Interlocal Agreement with Hidalgo County for exclusive and sole authority to regulate subdivision plats and related permits within the City of Pharr's Extra-territorial Jurisdiction, pursuant to Subchapter A of Chapter 212 of the Texas Local Government Code. (ADMINISTRATION)

10. 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.

AGENDA REGULAR MEETING
June 1, 2020

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.

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

12. 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 29th day of May 2020 at 3:30 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 29th 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 20, 2020

MEETING DATE: June 1, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Public Hearing on Development Services Cases

Classification: Regular

(* 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 - 5/20/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 4.A.

DATE SUBMITTED:

MEETING DATE: June 1, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR:

Agenda Item: City Engineer's Report.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue:

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Omar Anzaldua
City Management Office

Created -

Design Phase

- ☐ **PSJA Tri-City Pedestrian Safety Improvements Projects - Phase I**
- ☐ **Pharr Pedestrian Connections**
- ☐ **Hi-Line Road Improvements From Jackson Rd to Veterans Rd (I-Road)**
- ☐ **Anaya Road Improvements From US 281 (Cage Blvd) to Veterans Rd (I-Road)**
- ☐ **559 FY 16 DAP-Pharr-Reynosa Intl. Br. (Dock Expansion, Cold Inspection Facility, & Ag Training Center & Lab)**

Construction Phase

- ☐ **Pharr Nature and Birding Center**
- ☐ **Allen & William Arnold City/School Park**
- ☐ **Dr. William Long City/School Park**
- ☐ **Renovations of Jose "Pepe" Salinas Civic Center**
- ☐ **Utility Relocation for Hike & Bike Tunnel under Veterans**
- ☐ **City of Pharr Downtown Park**
- ☐ **Pharr Bridge Office Expansion**
- ☐ **16-Inch Waterline on Hi-Line Rd.**
- ☐ **Aquatic Facility**

DESIGN PHASE

Project Name:	PSJA Tri-City Pedestrian Safety Improvements Project
Design Engineer:	City of Pharr Engineering Department.
Description:	Construction of approximately 27,784 square yards of concrete sidewalks within the Cities of Pharr, San Juan & Alamo to make linkages to surrounding cities, schools, neighborhoods, public parks by extending sidewalks and closing gaps in service.
Status:	Coordinating with TXDOT to finalize the Advance Funding Agreement. Survey for the Project is approximately 100% Complete. Design is 95% Complete. Project was submitted to TXDOT for review
Project Name:	Pharr Pedestrian Connections
Design Engineer:	City of Pharr Engineering Department.
Description:	The Project will provide pedestrians in the City of Pharr with facility improvements that will address the needs of seniors and persons with disabilities
Status:	Staff has begun the design
Project Name:	Hi-Line Road Improvements From Jackson to Veterans
Design Engineer:	S&B Infrastructure, Ltd.
Description:	Approximately 2.3 miles of roadway improvements from Jackson Rd to Veterans Rd.
Status:	City received AFA. Staff Coordinating a design kickoff meeting.

DESIGN PHASE

Project Name:	Anaya Rd. Improvements From US 281 (Cage Blvd.) to Veterans Rd. (I-Road)
Design Engineer:	S&B Infrastructure, Ltd.
Description:	Approximately 1.03 miles of roadway improvements from US 281 (Cage Blvd.) to Veterans Rd. (I-Road)
Status:	Project On-Hold
Project Name:	559 FY 16 DAP- Pharr Reyonsa Intl. Br. (Dock Expansion, Cold Inspection Facility, and Ag Training Center and Lab)
Design Engineer:	Half Associates
Description:	Construction of a dry Dock Expansion, Cold Inspection Facility, and Ag Training Center and Lab
Status:	City is waiting for AFA from TXDOT. Design is 100% Complete

CONSTRUCTION PHASE

Project Name:	Pharr Nature and Birding Center		
Engineer	Halff Associates		
Contractor	Davila Construction		
Contract Amount to Date	\$2,765,642	Contract Time (Days)	210
Notice to Proceed	2/20/2018	Contract Time Used:	393.81%
Description: Construction of a new nature and birding park. Includes parking lot, restroom, amphitheater, decomposed granite trail, and retention pond.			
Status: Substantial completion has been achieved.			
Pictures: Contractor is finishing up punch list items.			



CONSTRUCTION PHASE

Project Name:	Allen & William Arnould City/School Park		
Engineer	Halff Associates		
Contractor	Davila Construction		
Contract Amount to Date	\$2,516,467	Contract Time (Days)	210
Notice to Proceed	2/20/2018	Contract Time Used:	393.81%
Description: Construction of a new park. Includes concrete trail, playground, restroom, parking lot, and sports fields.			
Status: Substantial completion has been achieved.			
Pictures: Contractor is finishing up punch list items.			



CONSTRUCTION PHASE

Project Name:	Dr. William Long City/School Park		
Engineer	Halff Associates		
Contractor	Davila Construction		
Contract Amount to Date	\$1,786,709	Contract Time (Days)	210
Notice to Proceed	2/20/2018	Contract Time Used:	393.81%
Description: Construction of a new park. Includes concrete trail, playground, restroom, and sports fields.			
Status: Substantial completion has been achieved.			
Pictures: Contractor is completing punch list items. City is subcontracting construction of irrigation system in baseball field.			



CONSTRUCTION PHASE

Project Name:	Renovations of Jose "Pepe" Salinas Civic Center		
Architect	Diseño		
Contractor	Davila Construction		
Contract Amount	\$3,200,000	Contract Time (Days)	210
Notice to Proceed	9/24/2018	Contract Time Used:	290.95%
Description: Renovations of an approximately 16,000 s.f. facility and construction of a new Parks Administration Building			
Status: Substantial completion has been achieved.			
Pictures: Pending punchlist items.			



CONSTRUCTION PHASE

Project Name:	Utility Relocation for Hike & Bike Tunnel under Veterans.		
Engineer	Garcia Infrastructure Consultants, LLC (GiC)		
Contractor	Ferguson Service Systems, Inc.		
Contract Amount	\$304,645	Contract Time (Days)	210
Notice to Proceed	7/30/2018	Contract Time Used:	317.62%

Description: Construction of a new grinder pump station to eliminate a sanitary sewer utility conflict that resulted from the proposed Hike and Bike Tunnel under I-Road.

Status: Coordinating with Hidalgo County on the pouring the driveway. Lift Station is in operation

Pictures:



CONSTRUCTION PHASE

Project Name:	City of Pharr Downtown Park		
Engineer	City of Pharr		
Contractor	Davila Construction		
Contract Amount to Date	\$1,425,177	Contract Time (Days)	120
Notice to Proceed	9/18/2019	Contract Time Used:	210.00%

Description: Construction of a new downtown park located on the north side and south side of City Hall. Includes amphitheater, fountains, and food park.

Status: Construction is complete.

Pictures: Downtown park is at substantial completion



CONSTRUCTION PHASE

Project Name:	Pharr Bridge Office Expansion		
Engineer	The Warren Group Architects Inc.		
Contractor	International Consulting Engineers (ICE)		
Contract Amount to Date	\$1,316,952	Contract Time (Days)	240
Notice to Proceed	6/3/2019	Contract Time Used:	149.58%
Description:			
Status: Construction is ongoing			
Pictures: Parking lot and retention pond are complete. Building additional and renovations are in progress.			
			
			

CONSTRUCTION PHASE

Project Name:	16-Inch Waterline on Hi-Line Rd.		
Engineer	Melden and Hunt		
Contractor	Castle Enterprises, LLC.		
Contract Amount to Date	\$292,647.88	Contract Time (Days)	60
Notice to Proceed	7/29/2019	Contract Time Used:	505.00%

Description: Installation of a 16-inch waterline on the north side of Hi-Line Rd. from S. Cage Blvd. to Monarch Business Park Subdivision.

Status: Construction is complete.

Pictures: Waterline installation is about 100 FT from Cage/Hi-Line intersection. Preparations are being made to cross waterline underneath S. Cage Blvd.



CONSTRUCTION PHASE

Project Name:	Aquatic Facility (Project No. 1819-35-510-C011-051)		
Architect	The Warren Group Architects		
Contractor	D. Wilson Construction		
Contract Amount to Date	\$23,165,208.00	Contract Time (Days)	550
Notice to Proceed	11/1/2019	Contract Time Used:	37.82%
Description: The project is a fully enclosed olympic natatorium and diving pool with support facilities. Building area is approximatley 70,400 S.F.			
Status: Construction is ongoing.			
Pictures: Aerial view of concrete building pad and and competition pool.			

CONSTRUCTION PHASE

Project Name:	Jones Box Park Phase 2 West Expansion (Project No. 1920-01-528-C003-210)		
Engineer:	R. Guitierrez Engineering Corporation		
Contractor:	Vensor Contractors, LLC		
Contract Amount to Date	\$299,214.24	Contract Time (Days)	170
Notice to Proceed	2/6/2020	Contract Time Used:	65.29%

Description: This project will consist of utility improvements.

Status: Construction is ongoing.

Pictures: All utilities and services have been installed; developer will begin installing the stormline.



CONSTRUCTION PHASE



CONSTRUCTION PHASE

Project Name:	Hike & Bike Phase 2 Utility Relocation (Project No. 1920-61-528-C004-289)		
Engineer:	Javier Hinojosa Engineering		
Contractor:	RDH Site and Concrete, LLC		
Contract Amount to Date	\$332,830.00	Contract Time (Days)	180
Notice to Proceed	3/2/2020	Contract Time Used:	47.78%

Description: This project will consist of utility relocation.

Status: Construction is on going.

Pictures: Developer has made an open cut on E. Ridge Rd. and made repairs on curb along said road and gutter and valley gutter on S. Linden St.



CONSTRUCTION PHASE

Project Name:	Single Machine Repaving Year 5 Project (Project		
Engineer:	City of Pharr Engineering Department		
Contractor:	Cutler Repaving Inc.		
Contract Amount to Date	\$4,244,522.93	Contract Time (Days)	180
Notice to Proceed	3/2/2020	Contract Time Used:	47.78%
Description: This project will consist of milling and repaving streets from the northern, central and southern regions of the City of Pharr.			
Status: Construction in ongoing			
Pictures: All streets on proposed list have been completed, additional streets will be added on.			
			
			



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.A.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Approval of Minutes for May 18, 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:

Alternatives:

ROUTING:

Hilda Pedraza
City Management Office

Created/Initiated - 5/28/2020
Final Approval - 5/29/2020

**MINUTES
BOARD OF COMMISSIONERS
REGULAR CALLED MEETING
MONDAY, MAY 18, 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 18, 2020 via videoconference and following is the record of attendance.

BOARD OF COMMISSIONERS PRESENT: Mayor Ambrosio Hernandez
Comm. Eleazar Guajardo
Mayor Pro Tem Roberto “Bobby” Carrillo
Comm. Ramiro Caballero
Comm. Daniel Chavez
Comm. Ricardo Medina
Comm. Itza Flores

BOARD OF COMMISSIONERS ABSENT: None

STAFF PRESENT: Edward Wylie, Interim City Manager
Anali Alanis, Assistant City Manager
Hilda Pedraza, ACM/City Clerk
Omar Anzaldúa, City Engineer
Karla Saavedra, Finance Director
Veronica Ramirez, HR 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
Daniel Ramirez, Communications 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

MINUTES: REGULAR CALLED MEETING
May 18, 2020

Mayor Hernandez called the meeting to order at 4:00 p.m. Roll call established a quorum.

B) PLEDGE OF ALLEGIANCE/INVOCATION

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

ITEM 2. PUBLIC TESTIMONY

There were no comments from the public.

ITEM 3. CITY MANAGER'S REPORTS

A) SUBMISSION OF SALES TAX COLLECTION REPORT FOR MAY 2020

Ed Wylie, Interim City Manager, introduced the item. He briefly reported the City of Pharr had an increase of 2.84% year-to-date and a decrease of -0.86% in collected payment compared from last year.

B) SUBMISSION OF PROPERTY TAX COLLECTION REPORT FOR APRIL 2020

Ed Wylie, Interim City Manager, introduced the item and reported the City of Pharr was still on track and doing good.

C) SUBMISSION OF FINANCIAL QUARTERLY REPORT FOR PERIOD ENDING MARCH 2020

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

D) SUBMISSION OF 2ND QUARTER 2019-2020 CITY OF PHARR INVESTMENT REPORT

Ed Wylie, Interim City Manager, introduced the item and stated the report was available in the packet and any questions could be entertained at this time.

ITEM 4. 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, REQUESTED 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, CLOSER SUBDIVISION OF PORCION, PHARR, HIDALGO COUNTY, TEXAS. THE PROPERTY IS LOCATED WITHIN THE 1300 BLOCK OF EAST MILITARY HIGHWAY. SUB#190203 (DEVELOPMENT SERVICES)

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

Comm. Carrillo **moved** to approve as recommended. Comm. Guajardo 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 RENEWAL FEES FOR CONDITIONAL USE PERMITS FOR ON-PREMISE CONSUMPTION AND HEALTH PERMIT RENEWALS (DEVELOPMENT SERVICES)**

Ed Wylie, Interim City Manager, introduced the item and recommended approval to waive renewals fees for a period of 90 days.

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

Ordinance No. O-2020-18 is filed with the City Clerk's Office.

- 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)**

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

- 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)**

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 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.

E) CONSIDERATION AND ACTION, IF ANY, ON RESOLUTION APPOINTING/RE-APPOINTING ONE MEMBER TO THE COMMUNITY DEVELOPMENT COUNCIL (GMCD)

Ed Wylie, Interim City Manager, introduced the item. He stated the term of Rene Cantu would be expiring and recommended reappointment.

Comm. Medina moved to reappoint Rene Cantu to the Community Development Council. Comm. Guajardo seconded the motion and when put to a vote, it carried unanimously.

Resolution No. R-2020-23 is filed with the City Clerk's Office.

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)

Ed Wylie, Interim City Manager, introduced the item. He briefly explained this was to install light poles in front of City Hall to finish the downtown lighting project and recommended approval.

Comm. Carrillo moved to approve as recommended. Comm. Guajardo seconded the motion and when put to a vote, it carried by majority vote of six (6) ayes and one (1) abstention. Comm. Chavez abstained from voting.

Resolution No. R-2020-24 is filed with the City Clerk's Office.

ITEM 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)

Ed Wylie, Interim City Manager, introduced the item. He stated the estimated construction cost was \$500,000 to \$600,000 and it was not a budgeted item. However, this would be placed at the next city commission meeting for a budget amendment and recommended approval.

Comm. Caballero moved to approve as recommended. Comm. Carrillo seconded the motion and when put to a vote, it carried by majority vote of six (6) ayes and one (1) abstention. Comm. Chavez abstained from voting.

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)

Ed Wylie, Interim City Manager, introduced the item. He briefly explained this was to increase traffic flow and efficiency as requested by U.S. Customs and Border Protection and recommended approval.

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

C) PRESENTATION AND DISCUSSION ON PHARR COVID-19 DISASTER RECOVERY CENTER (ADMINISTRATION)

Ed Wylie, Interim City Manager, introduced the item. He stated the 311 COVID Call Center was closed two weeks ago and the City would now be transitioning to the Disaster Recovery Center to be located at the Pharr Events Center. At this time, he called upon Karina Lopez for a presentation.

Karina Lopez, Interim Chamber President, explained the Pharr COVID-19 Recovery Center was for businesses or individuals needing financial assistance or in

need of resources. She stated the center would be opening on Wednesday, May 27, 2020 and the hours of operation would be Monday through Friday from 10:00 a.m. to 7:00 p.m. and Saturdays from 9:00 a.m. to 1:00 p.m. She further stated the proposed financial assistance would include PEDC and CDBG HUD monies and the programs available were Small Business Forgiveness Loans, Utility Hardship Program, Development Services Deferrals, Utility Assistance for Electricity and Water, and Small Business Assistance.

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)

Ed Wylie, Interim City Manager, introduced the item. He stated this was for assessment of all street intersections, traffic counts, flow patterns and future transportation needs and recommended approval.

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

ITEM 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)

Ed Wylie, Interim City Manager, introduced the item and stated the estimated fee was \$50,142.63. He further 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 INTERLOCAL AGREEMENT BETWEEN CITY OF PHARR AND CITY OF SAN JUAN FOR DUAL CERTIFICATION OF SANITARY SEWER SERVICES (ADMINISTRATION)

Ed Wylie, Interim City Manager, introduced the item and stated this was for dual certification of sanitary sewer services in the Pharr ETJ 15,000 acres south of floodway. He further stated this was the first step to the ETJ and recommended approval.

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

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)

Ed Wylie, Interim City Manager, introduced the item. He explained the replacement of traffic signal loop detectors at the intersection of Polk Avenue and Veterans Boulevard was needed to improve the efficiency and progression of traffic. He stated the roadway required improvements as part of the Year 5 Street Repaving Program and the agreement with the City of San Juan would allow for these improvements. Mr. Wylie further stated approximately 200 feet of the east approach would be repaved to allow for the installation of a new traffic signal loop and the estimated cost was \$9,000. He further recommended approval.

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

D) CONSIDERATION AND ACTION, IF ANY, AUTHORIZING CITY MANAGER TO ENTER INTO A CONTRACT WITH KRONOS SAASHR, INC. FOR SUBSCRIPTION SERVICES FOR THE WORKFORCE READY CLOUD TIME AND ATTENDANCE SOFTWARE (PROJECT # 1920-01-518-S038-001) (IT)

Ed Wylie, Interim City Manager, introduced the item and stated the Kronos time and attendance solution has been in place since 2013 and has been a valuable tool for payroll. He stated the new solution would run from the cloud and would no longer restrict the number of licenses. He further stated the annual cost for maintenance was \$43,982.40 but would be paying \$5.39 per employee per month for actual number of employees on payroll. He further recommended approval subject to changes as requested by legal.

Comm. Carrillo moved to approve subject to legal review. Comm. Chavez seconded the motion and when put to a vote, it carried unanimously.

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)

Ed Wylie, Interim City Manager, introduced the item. He briefly explained Spectrum was no longer supporting the free government and education channels and were transitioning agencies to enterprise accounts going forward. He stated this was

needed to restore services to the city's channel which would provide a better high-quality service to the public. Mr. Wylie stated the cost was \$750 per month and a one-time fee of \$5,350 for construction and installation. He recommended approval subject to changes as requested by legal.

Comm. Carrillo **moved** to approve subject to legal review. Comm. Chavez seconded the motion and when put to a vote, it carried unanimously.

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)

Ed Wylie, Interim City Manager, introduced the item stated the final change order was for additional scope and items deleted from the original contract for value engineering purposes. He further stated the Construction Manager came in after the plans were substantially complete and additional items were needed to include additional manpower for Posada and anticipated Hubfest events. Mr. Wylie stated the amount for the change order was \$264,676.96 and recommended approval.

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

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)

Ed Wylie, Interim City Manager, introduced the item and stated the Civic Center was substantially complete. He stated the final change order was for additional scope and items deleted from the original contract for value engineering purposes and included additional items added such as canopies and lighting. He further recommended approval.

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

At this time, Mayor Hernandez, stated they would deviate and go into closed session. There was no objection.

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

MINUTES: REGULAR CALLED MEETING
May 18, 2020

The time being 4:35 p.m., Mayor Hernandez stated the commission would be entering into closed session in accordance with Chapter 551 of the Texas Govt. Code to discuss agenda items listed in the public portion of the agenda and Pursuant to Sections 551.071, 551.072, 551.074, 551.076, 551.084 and 551.087.

ITEM 10. RECONVENE

The time being 5:03 p.m., Mayor Hernandez stated the commission would be resuming the open meeting.

ITEM 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)

Ed Wylie, Interim City Manager, introduced the item and stated no action was necessary.

ITEM 11. ADJOURNMENT

There being no other business to come before the board, Comm. Guajardo moved to adjourn. Comm. Carrillo seconded the motion and when put to a vote, the motion carried unanimously. Meeting adjourned at 5:07 p.m.

CITY OF PHARR

AMBROSIO HERNANDEZ
MAYOR

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

ON THIS THE 18th 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

MINUTES: REGULAR CALLED MEETING

May 18, 2020

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 #: 5.B.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 2020

FROM: Hilda Pedraza, City Clerk

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Consideration and action on Development Services Cases:

Classification: Public Hearing

(* 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 - 5/28/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.B.1.

DATE SUBMITTED: May 26, 2020

MEETING DATE: June 1, 2020

FROM: Iris Mata, Secretary

DEPARTMENT: Development Services

DIRECTOR: Melanie Cano

Agenda Item: Las Pupusas Del Itacate, LLC. is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being 0.054 acres out of Lot 1A, Tim Development Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 807 South Jackson Road, Suite 6. **CUP#180318**

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: Las Pupusas Del Itacate, LLC. is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). **CUP#180318**

Financial Consideration:

Staff Recommendation: Development Services recommends approval of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site and applicant being in compliance with all City Ordinances and City Department requirements.

Alternatives:

ROUTING:

Iris Mata
Rita Galvan
Roland Gomez
Melanie Cano
City Management Office

Created/Initiated - 5/26/2020
Approved - 5/26/2020
Approved - 5/27/2020
Approved - 5/27/2020
Final Approval - 5/29/2020



Pharr



MAYOR Ambrosio Hernandez, MD

COMMISSIONERS Eleazar Guajardo | Roberto "Bobby" Carrillo | Ramiro Caballero, MD | Daniel Chavez | Ricardo Medina | Itza Flores

Executive Summary Letter

June 1, 2020

Conditional Use Permit **Renewal** for ABC –

Las Pupusas Del Itacate

Background:

Las Pupusas Del Itacate LLC, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption. This request constitutes the 2nd renewal for Las Pupusas Del Itacate.

The property is located at 807 S. Jackson, Ste. 6. It is zoned General Business District (C) and is in conformance with the Future Land Use Plan. All required inspections have been conducted and have passed.

Recommendations:

Staff recommends **approval** of the renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption subject to the site and applicant being in compliance with all City Ordinances and City Department requirements.



Pharr

Development Services



MEMORANDUM

DATE: MONDAY, JUNE 01, 2020

TO: MAYOR AND CITY COMMISSION

FROM: MELANIE CANO, DIRECTOR OF DEVELOPMENT SERVICES

THROUGH: EDWARD WYLIE, INTERIM CITY MANAGER

SUBJECT: CONDITIONAL USE PERMIT RENEWAL FOR ABC – FILE NO. CUP#180318 (LAS PUPUSAS DEL ITACATE, LLC.)

GENERAL INFORMATION:

APPLICANT: Las Pupusas Del Itacate, LLC. is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C).

LEGAL DESCRIPTION: The property is legally described as being 0.054 acres out of Lot 1A, Tim Development Subdivision, Pharr, Hidalgo County, Texas.

LOCATION: The property's physical address is 807 South Jackson Road, Suite 6.

ZONING: The property is currently zoned General Business District (C). The surrounding area is zoned General Business District (C) to the north, south and east, and City of Pharr limits lie to the west. The area is generally designated for commercial use in the Land Use Plan.

COMMENTS:

POLICE CHIEF:	Recommends approval of the Conditional Use Permit.
FIRE DEPARTMENT:	Recommends approval of the Conditional Use Permit

**CODE COMPLIANCE
DIVISION:**

Recommends approval of
the Conditional Use Permit.

HEALTH DIVISION:

Recommends approval of
the Conditional Use Permit.

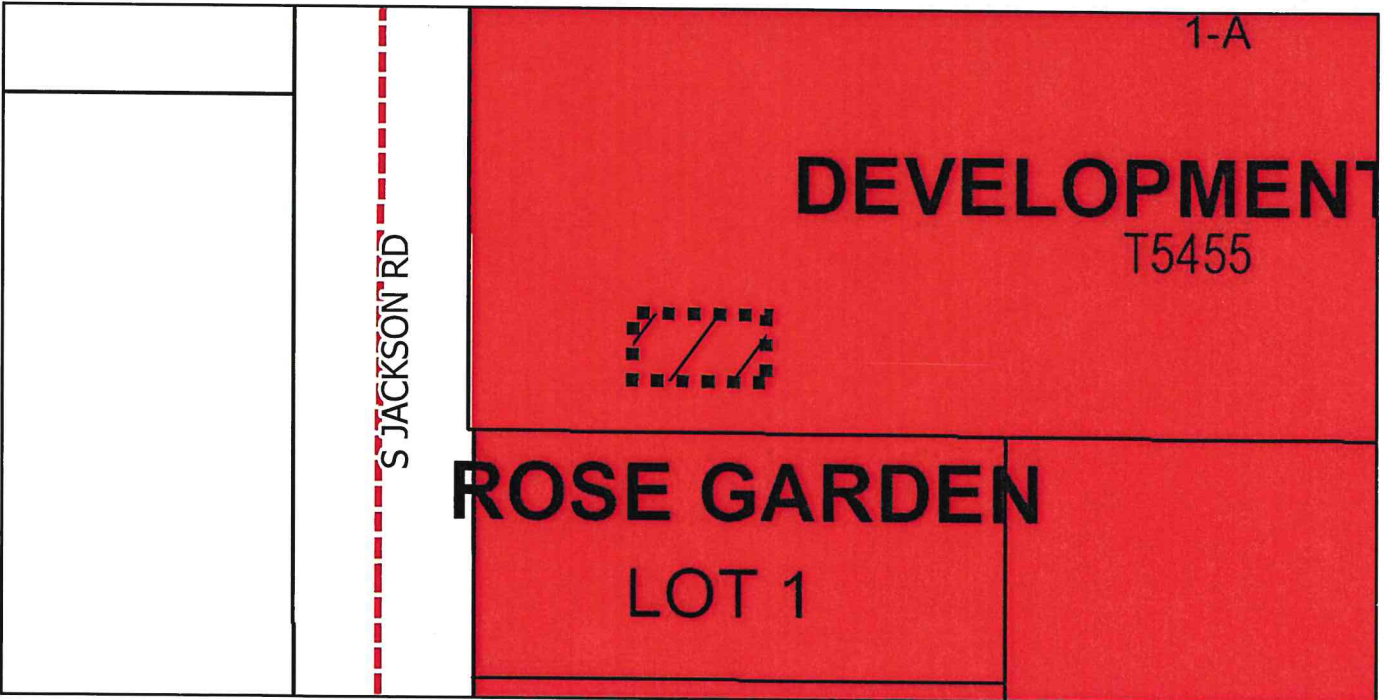
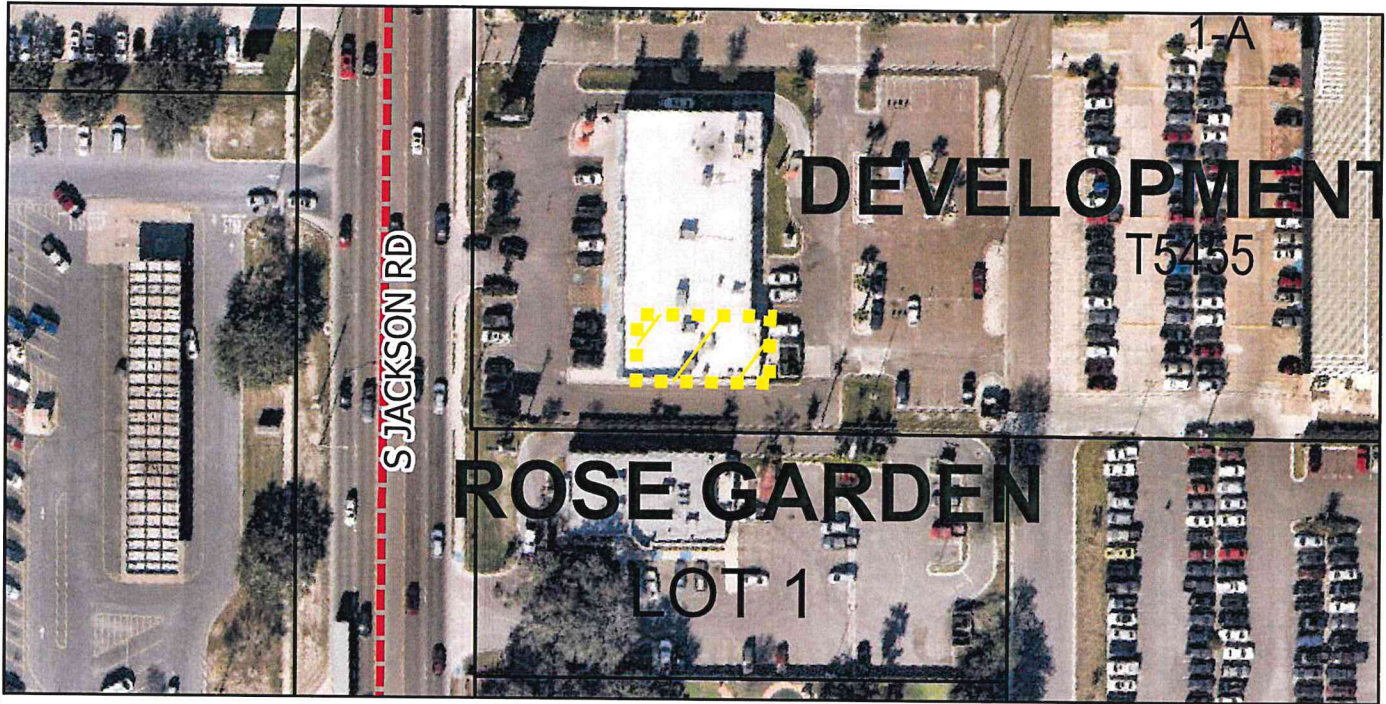
PLANNING DIVISION:

Recommends approval of
the Conditional Use Permit.

**DEVELOPMENT
SERVICES
RECOMMENDATION:**

Development Services recommends **approval** of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site and applicant being in compliance with all City Ordinances and City Department requirements.

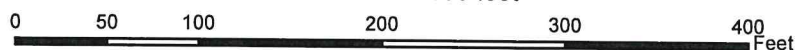
Conditional Use Permit Renewal
Tim Development Subdivision Lot 1A
Las Pupusas de Itacate



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

City of Pharr, Texas
Engineering Department
956.702.5355

Scale: 1 inch = 100 feet



Date: 5/26/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.B.2.

DATE SUBMITTED: May 26, 2020

MEETING DATE: June 1, 2020

FROM: Iris Mata, Secretary

DEPARTMENT: Development Services

DIRECTOR: Melanie Cano

Agenda Item: Juan F. Garza, d/b/a Muelle 37, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being a 0.073 acre tract of land, more or less, out of Lot 2, Browning Commercial Area Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 1000 North Cage Boulevard, Suite A. **CUP#150325**

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: Juan F. Garza, d/b/a Muelle 37, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). **CUP#150325**

Financial Consideration:

Staff Recommendation: Development Services recommends approval of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site and applicant being in compliance with all City Ordinances and City Department requirements.

Alternatives:

ROUTING:

Iris Mata
Rita Galvan
Roland Gomez
Melanie Cano
City Management Office

Created/Initiated - 5/26/2020
Approved - 5/26/2020
Approved - 5/27/2020
Approved - 5/27/2020
Final Approval - 5/29/2020



Pharr



MAYOR Ambrosio Hernandez, MD

COMMISSIONERS Eleazar Guajardo | Roberto "Bobby" Carrillo | Ramiro Caballero, MD | Daniel Chavez | Ricardo Medina | Itza Flores

Executive Summary Letter

June 1, 2020

Conditional Use Permit **Renewal** for ABC –

Muelle 37

Background:

Juan F. Garza, d/b/a Muelle 37, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption. This request constitutes the 5th renewal for Muelle 37.

The property is located at 1000 North Cage Boulevard, Suite A. It is zoned General Business District (C) and is in conformance with the Future Land Use Plan. All required inspections have been conducted and have passed.

Recommendations:

Staff recommends **approval** of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverage for on-premise consumption subject to the site and applicant being in compliance with all City Ordinances and City Department requirements.

P:\Admin\MY FILES\CUPs\ABC\ABC_J GARZA dba MUELLE 37_2015



MEMORANDUM

DATE: MONDAY, JUNE 01, 2020
TO: MAYOR AND CITY COMMISSION
FROM: MELANIE CANO, DIRECTOR OF DEVELOPMENT SERVICES
THROUGH: EDWARD WYLIE, INTERIM CITY MANAGER

SUBJECT: CONDITIONAL USE PERMIT RENEWAL FOR ABC FILE NO. CUP#150325 (MUELLE 37)

GENERAL INFORMATION:

APPLICANT: Juan F. Garza, d/b/a Muelle 37, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C).

LEGAL DESCRIPTION: The property is legally described as being a 0.073 acre tract of land, more or less, out of Lot 2, Browning Commercial Area Subdivision, Pharr, Hidalgo County, Texas.

LOCATION: The property's physical address is 1000 North Cage Boulevard, Suite A.

ZONING: The property is currently zoned General Business District (C). The surrounding area is zoned General Business District (C) to the North, South, East and West. The area is generally designated for commercial use in the Land Use Plan.

COMMENTS:

POLICE CHIEF:	Recommends approval of the Conditional Use Permit.
FIRE DEPARTMENT:	Recommends approval of the Conditional Use Permit.

**CODE COMPLIANCE
DIVISION:**

Recommends approval of
the Conditional Use Permit.

HEALTH DIVISION:

Recommends approval of
the Conditional Use Permit.

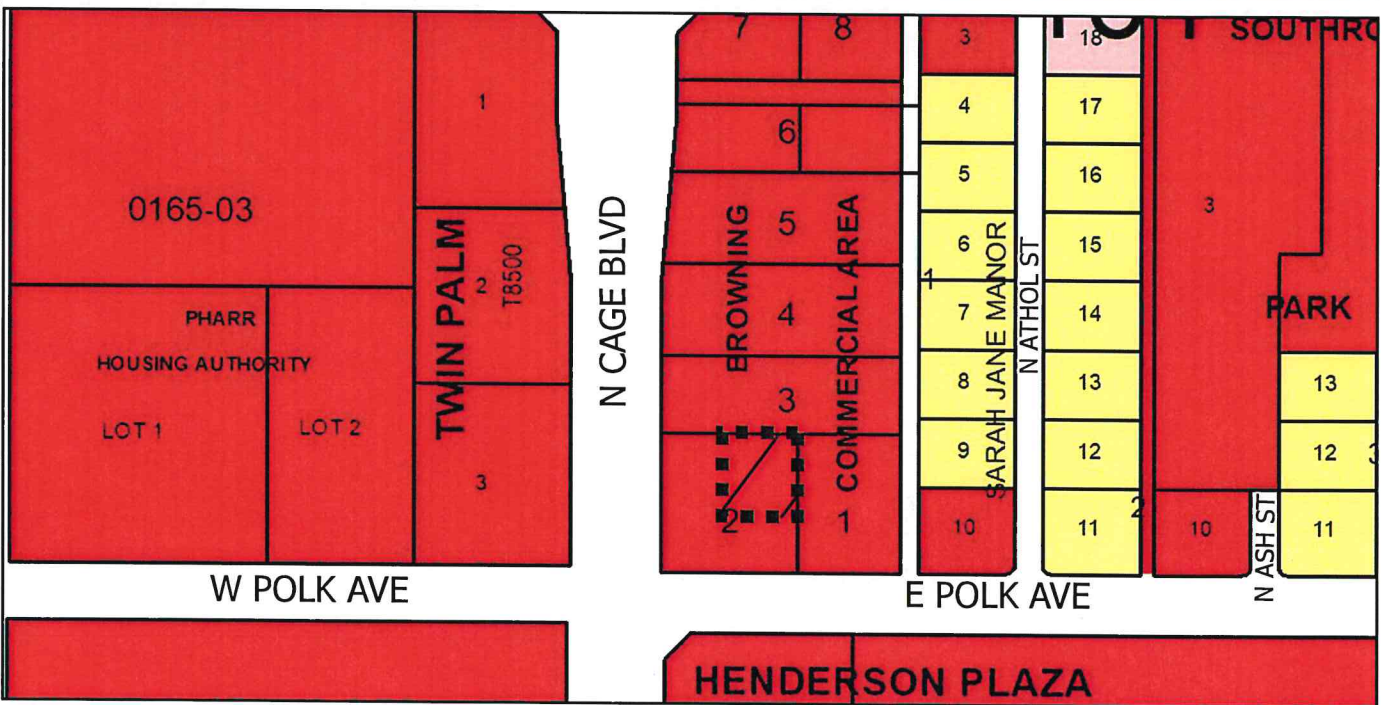
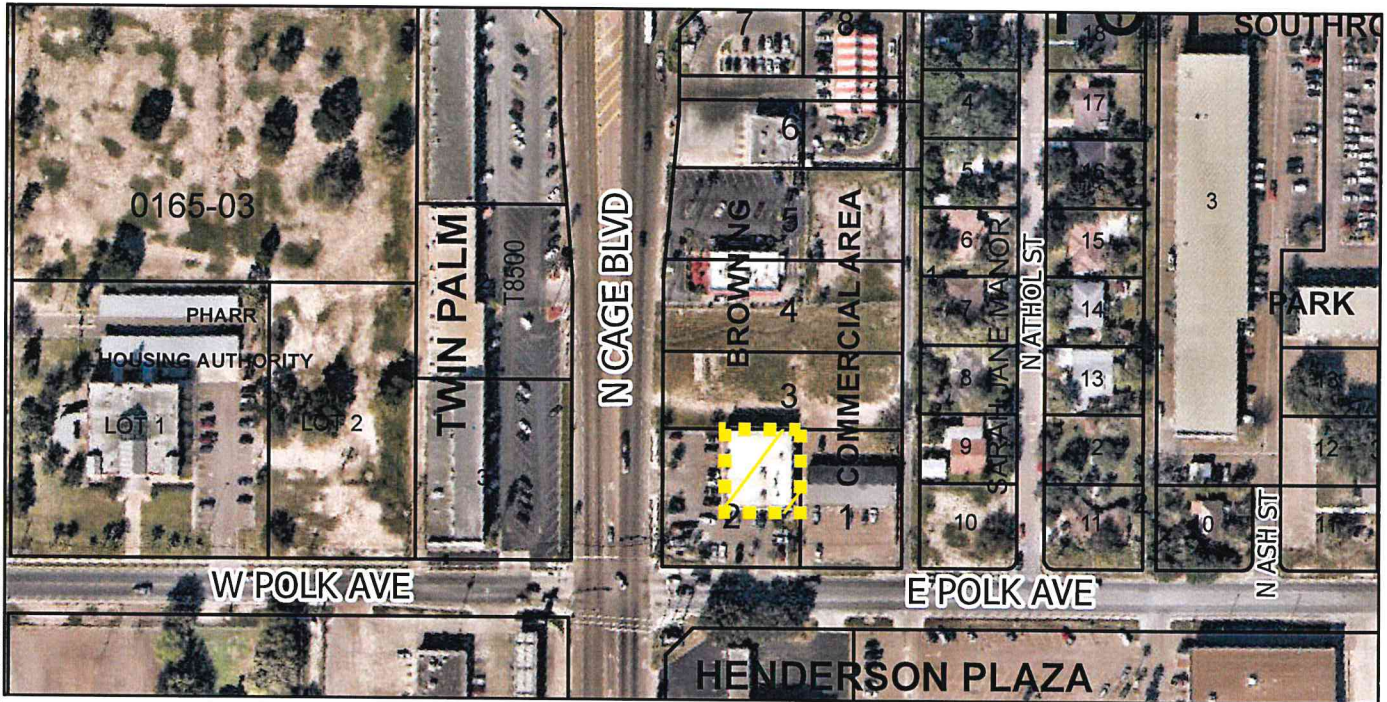
PLANNING DIVISION:

Recommends approval of
the Conditional Use Permit.

**DEVELOPMENT
SERVICES
RECOMMENDATIONS:**

Development Services recommends **approval** of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site and applicant being in compliance with all City Ordinances and City Department requirements.

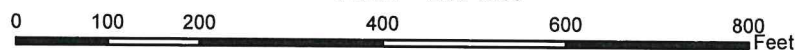
Conditional Use Permit Renewal
 .073Ac out of Lot 2 Browning Commercial Area
 Juan F. Garza/ Muelle 37



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

City of Pharr, Texas
 Engineering Department
 956.702.5355

Scale: 1 inch = 200 feet



Date: 5/26/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 5.B.3.

DATE SUBMITTED: May 26, 2020

MEETING DATE: June 1, 2020

FROM: Iris Mata, Secretary

DEPARTMENT: Development Services

DIRECTOR: Melanie Cano

Agenda Item: Paradise Bar and Grill LLC, dba Cantina Bar and Grill, is requesting renewal of the Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). The property is legally described as being Lot 187, Valle De La Primavera Subdivision, Pharr, Hidalgo County, Texas. The property's physical address is 6905 South Jackson Road. **CUP#170209**

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: Paradise Bar and Grill LLC, dba Cantina Bar and Grill, is requesting renewal of the Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C). **CUP#170209**

Financial Consideration:

Staff Recommendation: Development Services recommends approval of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site and applicant being in compliance with all City Ordinances and City Department requirements.

Alternatives:

ROUTING:

Iris Mata
Rita Galvan
Roland Gomez
Melanie Cano
City Management Office

Created/Initiated - 5/26/2020
Approved - 5/26/2020
Approved - 5/27/2020
Approved - 5/27/2020
Final Approval - 5/29/2020



Pharr



MAYOR Ambrosio Hernandez, MD

COMMISSIONERS Eleazar Guajardo | Roberto "Bobby" Carrillo | Ramiro Caballero, MD | Daniel Chavez | Ricardo Medina | Itza Flores

Executive Summary Letter

June 1, 2020

Conditional Use Permit **Renewal** for ABC

Catina Bar and Grill.

Background:

Paradise Bar and Grill LLC d/b/a Catina Bar and Grill, is requesting renewal of the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption. This request constitutes the 3rd renewal for Catina Bar and Grill.

The property is located at 6905 S. Jackson Road. It is zoned General Business District (C) and is in conformance with the Future Land Use Plan. All required inspections have been conducted and have passed.

Recommendations:

Staff recommends **approval** of the renewal of the Conditional Use Permit to allow the sale of alcoholic beverage for on-premise consumption subject to the site and applicant being in compliance with all City Ordinances and City Department requirements.

P:\Admin\CUPs\ABC-Cantina Bar and Grill_Paradise Bar and Grill LLC_2017



Pharr

Development Services



MEMORANDUM

DATE: MONDAY, JUNE 01, 2020

TO: MAYOR AND CITY COMMISSION

FROM: MELANIE CANO, DIRECTOR OF DEVELOPMENT SERVICES

THROUGH: EDWARD WYLIE, INTERIM CITY MANAGER

SUBJECT: CONDITIONAL USE PERMIT FOR ABC RENEWAL – FILE NO. CUP#170209 (CANTINA BAR AND GRILL)

GENERAL INFORMATION:

APPLICANT: Paradise Bar and Grill LLC, dba Cantina Bar and Grill, is requesting renewal of the Conditional Use Permit and Late Hours Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C).

LEGAL DESCRIPTION: The property is legally described as being Lot 187, Valle De La Primavera Subdivision, Pharr, Hidalgo County, Texas.

LOCATION: The property's physical address is 6905 South Jackson Road.

ZONING: The property is currently zoned General Business District (C). The surrounding area is zoned General Business District (C) to the north and south, Single-Family Residential District (R-1) to the east and city limits to the west. The area is generally designated for commercial use in the Land Use Plan.

COMMENTS: **POLICE CHIEF:** Recommends approval of the Conditional Use Permit.

FIRE MARSHAL: Recommends approval of the Conditional Use Permit

CODE COMPLIANCE DIVISION: Recommends approval of the Conditional Use Permit.

HEALTH DIVISION: Recommends approval of the Conditional Use Permit.

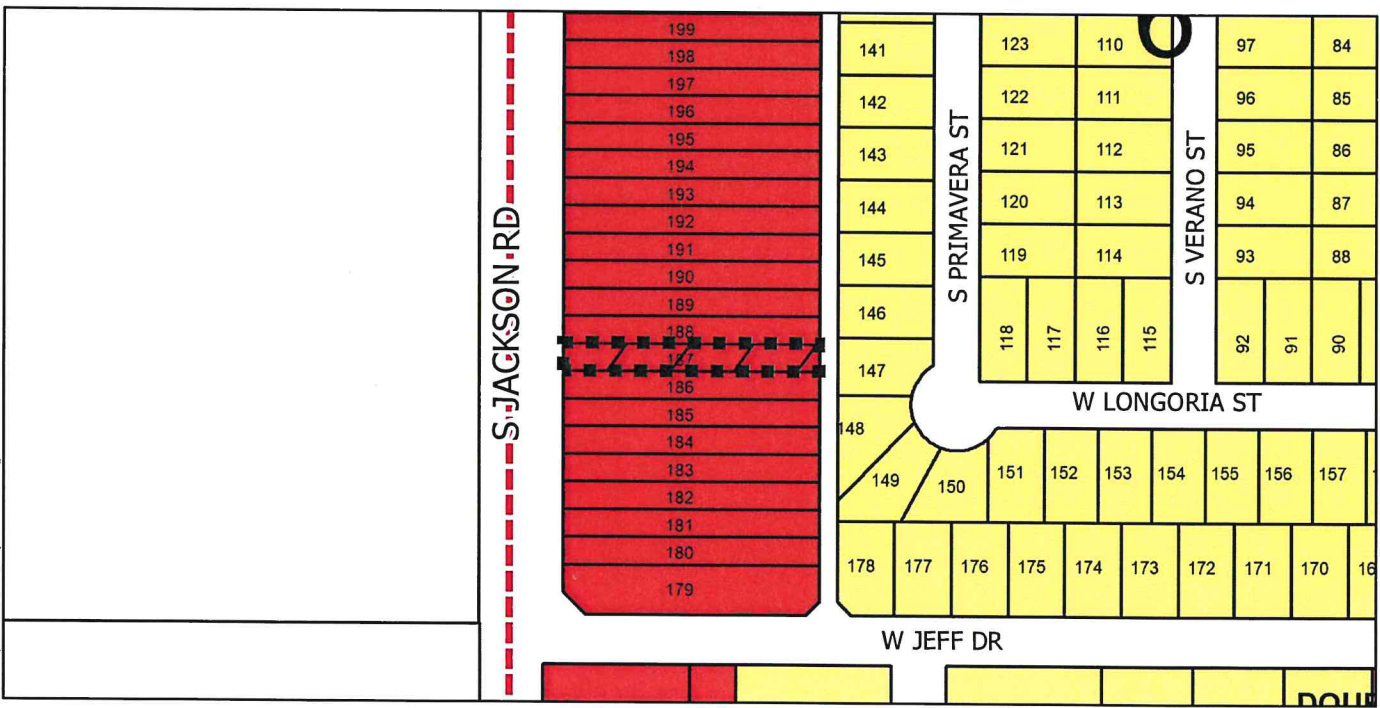
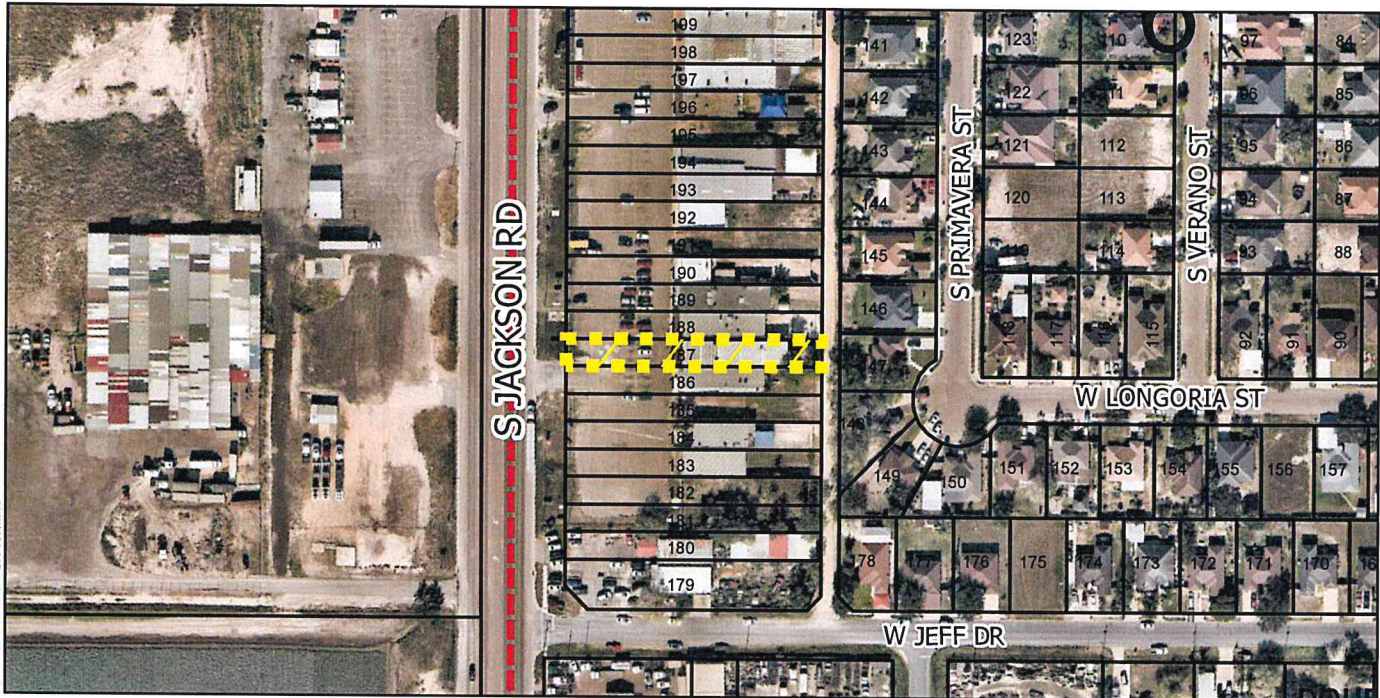
PLANNING DIVISION: Recommends approval of the Conditional Use Permit.

DEVELOPMENT SERVICES RECOMMENDATIONS: Development Services recommends **approval** of the renewal request for the Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Business District (C) subject to site and applicant being in compliance with all City Ordinances and City Department requirements.

Conditional Use Permit Renewal
Valle De La Primavera Lot 187
Paradise Bar & Grill LLC/Arnoldo Garza Jr



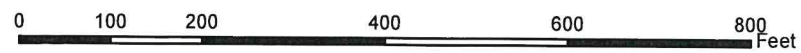
G:\City of Pharr\GIS\Projects\11-Planning\CUP Renewal\CUP Renewal Valle De La Primavera Lot 187.mxd



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

City of Pharr, Texas
Engineering Department
956.702.5355

Scale: 1 inch = 200 feet



Date: 3/3/2020



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.A.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 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 \$281,500 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): \$94,000

Construction Direct State Costs: \$187,500

Total: \$281,500

Financial Consideration: Estimated Advance Funding Agreement is \$281,500.

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 - 5/28/2020
Approved - 5/28/2020
Approved - 5/29/2020

Karla Saavedra
City Management Office

Approved - 5/29/2020
New - 4/16/2020

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.

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	

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.

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	

- 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

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	

- 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:

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	

- 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:

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	

- 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

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	

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

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	

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.

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	

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

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	

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.

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	

- 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.

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	

- 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.

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	

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

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	

- 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

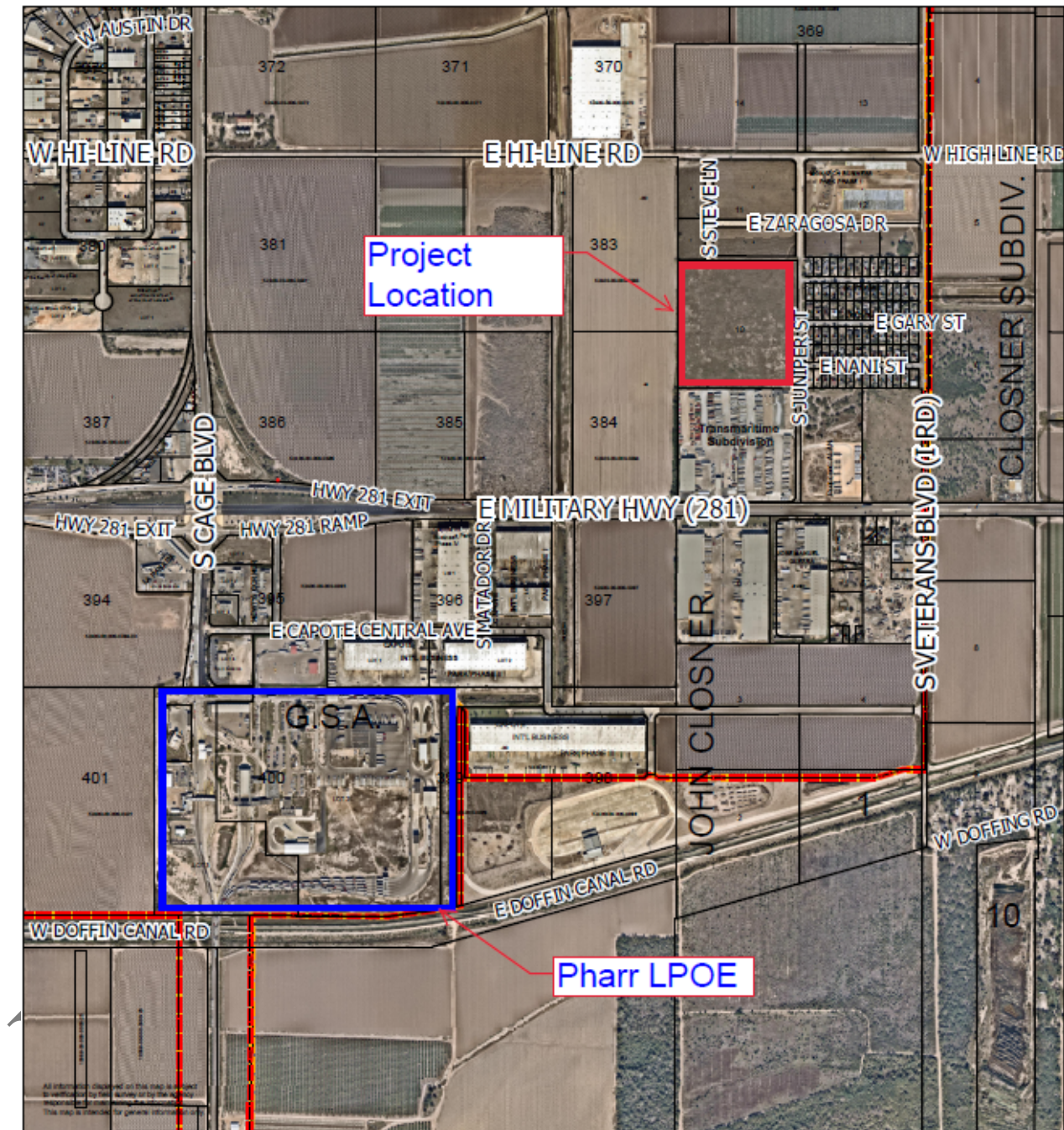
TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-42.	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Commercial Vehicle Staging Area	<i>AFA Not Used For Research & Development</i>	

ATTACHMENT A
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

FOR REVIEW ONLY

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-423	CFDA No.	20.205
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	

ATTACHMENT B LOCATION MAP SHOWING PROJECT



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	

ATTACHMENT C PROJECT BUDGET

Construction Costs are allocated based on 80% Federal funding and 20% State 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	
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	20%	\$800,000	0%	\$0
Construction (by LG)	\$3,500,000	0%	\$0	0%	\$0	100%	\$3,500,000
Construction Engineering (by LG)	\$375,000	0%	\$0	0%		100%	\$375,000
Subtotal	\$8,345,000		\$3,200,000		\$800,000		\$4,345,000
Engineer. Direct State Costs	\$70,500	0%	\$0	0%	\$0	100%	\$70,500
Environm. Direct State Costs	\$14,100	0%	\$0	0%	\$0	100%	\$14,100
Right of Way Direct State Costs	\$4,700	0%	\$0	0%	\$0	100%	\$4,700
Utility Direct State Costs	\$4,700	0%	\$0	0%	\$0	100%	\$4,700
Construction Direct State Costs (State review and oversight)	\$187,500	0%	\$0	0%	\$0	100%	\$187,500.00
Indirect State Costs	\$377,194	0%	\$0	100%	\$377,194	0%	\$0
Subtotal	\$658,694		\$0		\$377,194		\$281,500
TOTAL	\$9,003,694		\$3,200,000		\$1,177,194		\$4,626,500

Initial payment by the Local Government to the State: \$94,000.00

Payment by the Local Government to the State before construction: \$187,500

Estimated total payment by the Local Government to the State \$281,500.00. This is an estimate. The final amount of Local Government participation will be based on actual costs.

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 **\$281,500** and authorizes initial payment in the amount of **\$94,000** 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 **\$94,000** to the Texas Department of Transportation Trust Fund.

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

PASSED AND APPROVED this 1st day of June, 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.B.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 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 \$188,500 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): \$51,000

Construction Direct State Costs: \$137,500

Total: \$188,500

Financial Consideration: Estimated Advance Funding Agreement is \$188,500.

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 - 5/28/2020
Approved - 5/28/2020

Patricia Rigney
Karla Saavedra
City Management Office

Approved - 5/29/2020
Approved - 5/29/2020
New - 4/17/2020

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.

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	

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

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	

- 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

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	

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.

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	

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

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	

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:

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	

- 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.

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	

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.

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	

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

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	

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.

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	

- 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.

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	

- 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.

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	

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

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	

- 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

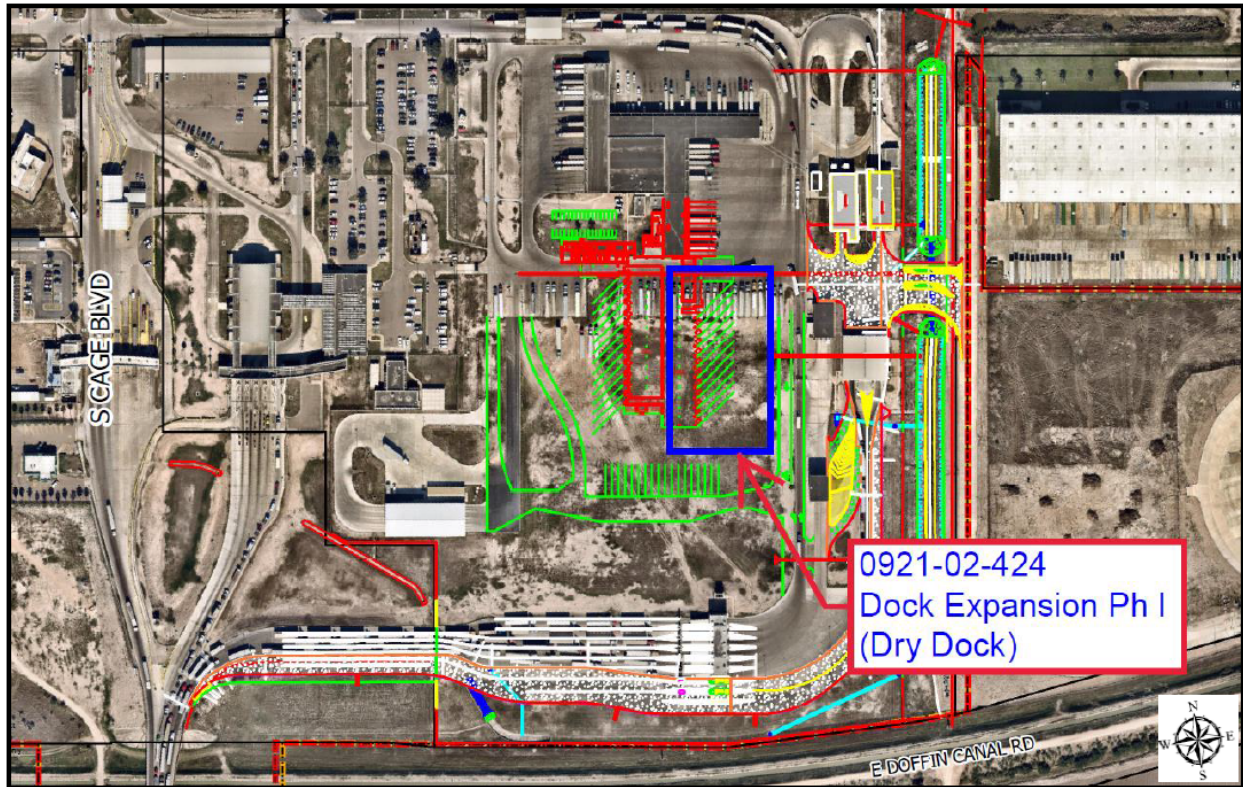
TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-424	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase I	<i>AFA Not Used For Research & Development</i>	

ATTACHMENT A
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

FOR REVIEW ONLY

TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-424	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	

ATTACHMENT B **LOCATION MAP SHOWING PROJECT**



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	

ATTACHMENT C PROJECT BUDGET

Construction Costs are allocated based on 80% Federal funding and 20% State 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	
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	20%	\$600,000	0%	\$0
Construction (by LG)	\$2,500,000	0%	\$0	0%	\$0	100%	\$2,500,000
Construction Engineering (by LG)	\$275,000	0%	\$0	0%	\$0	100%	\$275,000
Subtotal	\$6,115,000		\$2,400,000		\$600,000		\$3,115,000
Engineer. Direct State Costs	\$40,800	0%	\$0	0%	\$0	100%	\$40,800
Environm. Direct State Costs	\$5,100	0%	\$0	0%	\$0	100%	\$5,100
Right of Way Direct State Costs	\$2,550	0%	\$0	0%	\$0	100%	\$2,550
Utility Direct State Costs	\$2,550	0%	\$0	0%	\$0	100%	\$2,550
Construction Direct State Costs (State review and oversight)	\$137,500	0%	\$0	0%	\$0	100%	\$137,500.00
Indirect State Costs	\$276,398	0%	\$0	100%	\$276,398	0%	\$0
Subtotal	\$464,898		\$0		\$276,398		\$188,500
TOTAL	\$6,579,898		\$2,400,000		\$876,398		\$3,303,500

Initial payment by the Local Government to the State: ~~\$521,050~~0.00

Payment by the Local Government to the State before construction: ~~\$137,500~~0.00

Estimated total payment by the Local Government to the State ~~\$19088,005~~0.00.

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

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	<i>AFA Not Used For Research & Development</i>	

FOR REVIEW ONLY

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 **\$188,500** and authorizes initial payment in the amount of **\$51,000** 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 **\$51,000** to the Texas Department of Transportation Trust Fund.

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

PASSED AND APPROVED this 1st day of June, 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.C.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 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 - 5/28/2020
Approved - 5/28/2020

Patricia Rigney
Karla Saavedra
City Management Office

Approved - 5/29/2020
Approved - 5/29/2020
New - 4/16/2020

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	

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:	
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	

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

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	

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.

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	

- 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.

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	

- 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

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	

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

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	

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

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	

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

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	

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),

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	

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.

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	

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.).

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	

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."

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	

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

FOR REVIEW ONLY

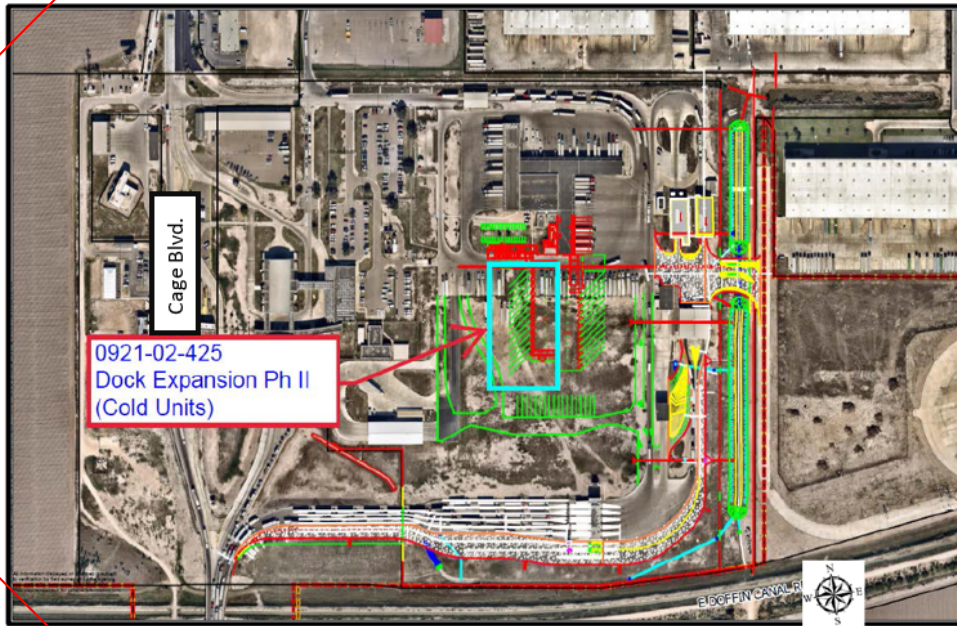
TxDOT:		Federal Highway Administration:	
CSJ #	0921-02-425	CFDA No.	20.205
District #	21-Pharr	CFDA Title	Highway Planning and Construction
Code Chart 64 #	32600		
Project Name	Dock Expansion Phase II (Cold Units)	<i>AFA Not Used For Research & Development</i>	

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**



Comment [GS1]: The CSJ label is covering the street name.

FOR RE

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% State 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, 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	
Preliminary 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	20%	\$1,000,000	0%	\$0
Construction (by LG)	\$6,500,000	0%	\$0	0%	\$0	100%	\$6,500,000
Construction Engineering (by LG)	\$575,000	0%	\$0	0%	\$0	100%	\$575,000
Subtotal	\$12,775,000		\$4,000,000		\$1,000,000		\$7,775,000
Engineer. Direct State Costs	\$119,000	0%	\$0	0%	\$0	100%	\$119,000
Environm. Direct State Costs	\$7,000	0%	\$0	0%	\$0	100%	\$7,000
Right of Way Direct State Costs	\$7,000	0%	\$0	0%	\$0	100%	\$7,000
Utility Direct State Costs	\$7,000	0%	\$0	0%	\$0	100%	\$7,000
Construction Direct State Costs (State review and oversight)	\$230,000	0%	\$0	0%	\$0	100%	\$230,000.00
Indirect State Costs	\$577,430	0%	\$0	100%	\$577,430	0%	\$0
Subtotal	\$947,430		\$0		\$577,430		\$370,000
TOTAL	\$13,722,430		\$4,000,000		\$1,577,430		\$8,145,000

Initial payment by the Local Government to the State: \$140,000.00

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

Estimated total payment by the Local Government to the State \$370,000.00.

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

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 **\$370,000** and authorizes initial payment in the amount of **\$140,000** 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 **\$140,000** to the Texas Department of Transportation Trust Fund.

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

PASSED AND APPROVED this 1st day of June, 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.D.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 2020

FROM: Leonardo Perez, Fire Chief

DEPARTMENT: Fire

DIRECTOR: Leonardo Perez

Agenda Item: Consideration and action if any, on Resolution authorizing the City of Pharr to submit a grant application to the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) for its Fiscal Year 2020 Assistance to Firefighters Grant Program - COVID -19 Supplemental.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: This grant allows for the reimbursement or purchase of equipment that is need to safely respond to the COVID-19 emergencies that we are currently experiencing.

Financial Consideration: This grant has a matching share of 10% of the total cost for the program which is 5,486.36

Staff Recommendation: Staff recommends approval of this application to offset City's costs.

Alternatives:

ROUTING:

Leonardo Perez

Created/Initiated - 5/28/2020

Hilda Pedraza

Approved - 5/29/2020

Anali Alanis

Approved - 5/29/2020

Patricia Rigney

Approved - 5/29/2020

Karla Saavedra

Approved - 5/29/2020

City Management Office

New -

RESOLUTION NO. R-2020_____

The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year 2020
Assistance to Firefighters Grant Program - COVID-19 Supplemental (AFG-S)
(CFDA) Number 97.044

WHEREAS, on March 14, 2020, the City of Pharr will submit to the U.S. Department of Homeland Security's Federal Emergency Management Agency ("FEMA") for its Fiscal Year 2020 Assistance to Firefighters Grant Program - COVID-19 Supplemental (AFG-S) and is seeking funding to **purchase Personal Protective Equipment**; and

WHEREAS, the AFG program is to provide critically needed supplies needed to prevent, prepare for and respond to the COVID-19 public health emergency, and;

WHEREAS, the total equipment project cost is **\$60,350** and the **(Federal share \$54,863.64), (City's matching share \$5,486.36)**; and

WHEREAS, The City of Pharr City Commission designates City Manager as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

NOW, THEREFORE, BE IT RESOLVED that The City of Pharr City Commission approves submission of the grant application for the Pharr Fire Department the U.S. Department of Homeland Security's Federal Emergency Management Agency ("FEMA") for its Fiscal Year 2020 Assistance to Firefighters Grant Program - COVID-19 Supplemental (AFG-S).

PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR TEXAS, THIS _____ DAY OF _____, 2020.

Grant Number:

CITY OF PHARR:

Ambrosio Hernandez, Mayor

ATTEST:

Hilda Pedraza, City Secretary

C e r t i f i c a t i o n

The State of Texas

County of Hidalgo

City of Pharr

I, Hilda Pedraza, duly appointed City Clerk of the City of Pharr, Texas, do hereby certify that the foregoing Constitutes a true and correctly copy of the original Resolution duly passed and adopted by the board of Commissioners of the City of Pharr, Texas, on the __day of _____ 2020, ad.

(Resolution no. _____)

In witness whereof, I have hereunto subscribed my official Signature and impressed the seal of the City of Pharr, Texas, This the _____ day of _____ 2020, ad.

City of Pharr

Hilda Pedraza, City Clerk



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.E.

DATE SUBMITTED: May 28, 2020

MEETING DATE: June 1, 2020

FROM: Leonardo Perez, Fire Chief

DEPARTMENT: Fire

DIRECTOR: Leonardo Perez

Agenda Item: Consideration and action if any, on Resolution authorizing the City of Pharr to submit a grant application to the U.S. Department of Homeland Security Federal Emergency Management Agency (FEMA) for its 2019 Staffing for Adequate Fire and Emergency Response (SAFER) Grant.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: This grant will allow the City to hire 9 firefighters with a cost sharing of 75% for the first 2 years and 35% for the final year of the program for a total of \$1,475,883.99. It will allow the Fire Department to have at the minimum of 4 personnel on every apparatus that is currently in service. We are currently having to go below that standard because of personnel out on sick, annual, FMLA, or any unforeseen emergencies.

Financial Consideration: This grant will pay 75% of the salaries of 9 new firefighters for the first 2 years and will pay 35% for the final year of the grant. Federal share will be 910,128.47 and City share will be 565,755.52.

Staff Recommendation: Staff recommends the approval of the application to FEMA.

Alternatives:

ROUTING:

Leonardo Perez

Created/Initiated - 5/28/2020

Hilda Pedraza

Approved - 5/29/2020

Anali Alanis

Approved - 5/29/2020

Patricia Rigney

Approved - 5/29/2020

Karla Saavedra

New -

City Management Office

RESOLUTION NO. R-2020_____

The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) FY 2019 Staffing for
Adequate Fire and Emergency Response (SAFER)
(CFDA) Number 97.083

WHEREAS, on May 15, 2020, the City of Pharr submitted an application to the U.S. Department of Homeland Security's Federal Emergency Management Agency ("FEMA") for its 2019 Staffing for Adequate Fire and Emergency Response ("SAFER") grant, seeking funding to assist with hiring nine (9) new firefighters; and

WHEREAS, the goal of the grant program is to assist local fire departments with staffing and deployment capabilities to respond to emergencies, assuring communities have adequate protection from fire and fire-related hazards, and;

WHEREAS, the total project cost for three years is **\$1,475,883.99** and the **(Federal share \$910,128.47 (City's matching share \$565,755.52))**; and

WHEREAS, for each of the new nine (9) firefighters to be hired, the grant will fund 75% of the salary and benefits for the first two years and fund 35% in the final year of the award; and

WHEREAS, also, assist Pharr Fire Departments citywide to meet the minimum staffing as defined in National Fire Protection Agency (NFPA) 1710 and 1720, as well as OSHA Respiratory standard 29 CFR 1910.134(g)(4)(ii), and;

WHEREAS, the City of Pharr understands that the SAFER grant requires grantees to maintain their staffing level and incur no lay-offs during the three (3) year-period of performance of the award.

WHEREAS, the City of Pharr has a clear understanding of the long-term obligations of the SAFER grant and that, if awarded, the City of Pharr is committed to fulfilling those requirements upon acceptance of the award.

WHEREAS, The City of Pharr City Commission designates City Manager as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW, THEREFORE, BE IT RESOLVED that The City of Pharr City Commission approves submission of the grant application for the Pharr Fire Department SAFER Project for the US Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA)/Grant Programs Directorate (GPD), FY 2019 Staffing for Adequate Fire and Emergency Response (SAFER)

PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR TEXAS,
THIS _____ DAY OF _____, 2020.

Grant Number:

CITY OF PHARR:

Ambrosio Hernandez, Mayor

ATTEST:

Hilda Pedraza, City Secretary

C e r t i f i c a t i o n

The State of Texas

County of Hidalgo

City of Pharr

I, Hilda Pedraza, duly appointed City Clerk of the City of Pharr, Texas, do hereby certify that the foregoing Constitutes a true and correctly copy of the original Resolution duly passed and adopted by the board of Commissioners of the City of Pharr, Texas, on the __day of_____ 2020, ad.

(Resolution no. _____)

In witness whereof, I have hereunto subscribed my official Signature and impressed the seal of the City of Pharr, Texas, This the _____day of _____ 2020, ad.

City of Pharr

Hilda Pedraza, City Clerk



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.F.

DATE SUBMITTED: May 4, 2020

MEETING DATE: June 1, 2020

FROM: Elva Guajardo, Administrative Assistant

DEPARTMENT: Parks

DIRECTOR: Sergio Alanis

Agenda Item: Consideration and action, if any, on Resolution appointing/reappointing two (2) members to the Parks and Recreation Advisory Board.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason: N/A

Issue: The aforementioned Parks and Recreation Board Members term will expire on June 5, 2020, after making contact with them they have advised staff that they wish to continue serving and have their terms renewed:

Gabriel Trevino

Juan Garcia

Financial Consideration: N/A

Staff Recommendation: City Commission approve reappointment of current board members.

Alternatives: N/A

ROUTING:

Elva Guajardo

Sergio Alanis

City Management Office

Created/Initiated - 5/4/2020

Approved - 5/21/2020

Final Approval - 5/29/2020

STATE OF TEXAS { }

COUNTY OF HIDALGO { }

CITY OF PHARR { }

R E S O L U T I O N

NO: R-2020-

WHEREAS, in accordance with city ordinance, Chapter 90, Article II, Section 90-32, has created and appointed a Parks and Recreation Committee composed of nine members who shall be residents of the City of Pharr and serve a term of two years. Any member of the Committee may be reappointed by the City Commission upon completion of a full term.

WHEREAS, the terms of Gabriel Trevino and Juan Garcia will expire on June 5, 2020; and

WHEREAS, appointment/re-appointment of two (2) members needs to be made at this time; and such Board members shall perform duties as may be prescribed by ordinance or state law.

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

The following persons are hereby appointed as members of the Parks and Recreation Committee of the City of Pharr

NAME:

LENGTH OF TERM

- | | |
|--------------|-----------------------------------|
| 1. _____ | 2-Year Term (to expire on 6/5/22) |
| 2. _____ | 2-Year Term (to expire on 6/5/22) |

PASSED AND APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR on this the 1st day of June, 2020.

CITY OF PHARR

AMBROSIO HERNANDEZ, MAYOR

ATTEST:

HILDA PEDRAZA, CITY CLERK



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.G.

DATE SUBMITTED: May 4, 2020

MEETING DATE: June 1, 2020

FROM: Elva Guajardo, Administrative Assistant

DEPARTMENT: Parks

DIRECTOR: Sergio Alanis

Agenda Item: Consideration and action, if any, on Resolution appointing/reappointing three (3) members to the Keep Pharr Beautiful Committee.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason: N/A

Issue: The aforementioned Keep Pharr Beautiful Committee Board Members term will expire on June 5, 2020, after making contact with them they have advised staff that they wish to continue serving and have their terms renewed:

Mari Caballero
Richard Carranza
Romeo Robles Jr.

Financial Consideration: N/A

Staff Recommendation: City Commission approve reappointment of current board members.

Alternatives: N/A

ROUTING:

Elva Guajardo
Sergio Alanis
City Management Office

Created/Initiated - 5/4/2020
Approved - 5/21/2020
Final Approval - 5/29/2020

STATE OF TEXAS { }

COUNTY OF HIDALGO { }

CITY OF PHARR { }

R E S O L U T I O N

NO: R-2020-

WHEREAS, in accordance with city ordinance, Chapter 90, Article II, Section 90-32, has created and appointed a Keep Pharr Beautiful Committee composed of five members who shall be residents of the City of Pharr and serve a term of two years. Any member of the Committee may be reappointed by the City Commission upon completion of a full term.

WHEREAS, the terms of Mari Caballero, Richard Carranza, and Romeo Robles Jr. will expire on June 5, 2020; and

WHEREAS, appointment/re-appointment of three (3) members need to be made at this time; and such Board members shall perform duties as may be prescribed by ordinance or state law.

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

The following persons are hereby appointed as members of the Keep Pharr Beautiful Committee of the City of Pharr

NAME:

LENGTH OF TERM

- | | |
|------------|-----------------------------------|
| 1. _____ | 2 Year Term (to expire on 6/5/22) |
| 2. _____ | 2 Year Term (to expire on 6/5/22) |
| 3. _____ | 2 Year Term (to expire on 6/5/22) |

PASSED AND APPROVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR on this the 1st day of June, 2020.

CITY OF PHARR

AMBROSIO HERNANDEZ, MAYOR

ATTEST:

HILDA PEDRAZA, CITY CLERK



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 6.H.

DATE SUBMITTED: May 29, 2020

MEETING DATE: June 1, 2020

FROM: Rita Galvan, Secretary

DEPARTMENT: Development Services

DIRECTOR:

Agenda Item: Consideration and action, if any, on Resolution directing staff to initiate municipal annexation procedures.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: The City of Pharr is a home-rule municipality authorized by state law and the City Charter to annex territory lying adjacent and contiguous to the corporate limits. The Board of Commissioners desires to promote the city's orderly growth by facilitating long-range planning for the provision of municipal services and applying appropriate land use regulations and development standards. Therefore, the City of Pharr, hereby directs city staff to initiate annexation procedures in accordance to the Texas Local Government Code for approximately 110 acres.

Financial Consideration: TBD

Staff Recommendation: Staff recommends approval.

Alternatives:

ROUTING:

Rita Galvan
Melanie Cano
Patricia Rigney
City Management Office

Created/Initiated - 5/29/2020
Approved - 5/29/2020
Approved - 5/29/2020
Final Approval - 5/29/2020

RESOLUTION NO. R-2020-

A RESOLUTION DIRECTING CITY STAFF TO INITIATE MUNICIPAL ANNEXATION PROCEDURES IN ACCORDANCE TO TEXAS STATE LAW, FOR APPROXIMATELY 110 ACRES OF LAND, MORE OR LESS, GENERALLY LOCATED EAST OF VETERANS BLVD., AND NORTH OF MILITARY HIGHWAY, IN THE CITY OF PHARR'S EXTRATERRITORIAL JURISDICTION (ETJ) IN HIDALGO COUNTY, TEXAS, LYING ADJACENT OR CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF PHARR; DIRECTING STAFF TO ASSIST LANDOWNERS WITH THE ANNEXATION PROCESS; AUTHORIZING THE OFFER TO ENTER INTO A DEVELOPMENT AGREEMENT TO CERTAIN OWNERS OF QUALIFYING COMMENCE ON PETITIONS OF LANDOWNERS, DEVELOPMENT AGREEMENT TO CERTAIN OWNERS OF QUALIFYING PROPERTIES THAT ARE BEING CONSIDERED FOR ANNEXATION AS REQUIRED BY TEXAS LOCAL GOVERNMENT CODE 43.016 AND 212.172; DIRECTING CITY STAFF TO PREPARE A SERVICE PLAN THAT PROVIDES FOR THE EXTENSION OF FULL MUNICIPAL SERVICES TO THE AREAS TO BE ANNEXED IN ACCORDANCE WITH STATE LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pharr, Texas is a home-rule municipality authorized by State law pursuant to Texas Local Government Code §43.003 and the City Charter to annex territory lying adjacent and contiguous to the corporate limits of the City of Pharr, Texas; and

WHEREAS, the City of Pharr's current population allows for a 3 ½ mile extra-territorial jurisdiction ("ETJ");

WHEREAS, the Board of Commissioners of the City of Pharr desire to promote the City's orderly growth by facilitating long-range planning for the provision of municipal services and by applying appropriate land use regulations, development standards, fire codes, construction codes and environmental regulations; and

WHEREAS, the Owners' properties identified within Exhibit "A", hereinafter collectively referred to as "the Property", are located within the ETJ of the City and are subject to municipal annexation in accordance with TLGC Chapter 43; and

WHEREAS, the Board of Commissioners for the City of Pharr believe annexation of the property would enable the City to ensure that quality development emerges around the area; and

WHEREAS, the Board of Commissioners for the City of Pharr believe that in order to achieve the aforementioned objectives, it is in the best interest of the City to annex certain property lying adjacent and contiguous to the present corporate limits of the City of Pharr and located within the city's ETJ; and

WHEREAS, some Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

WHEREAS, the Texas Local Government Code § 43.016 and § 212.172 provide that the City may not annex property appraised for such purposes unless it offers a development agreement with the Owner pursuant to such sections; and

WHEREAS, to further the intentions of the landowners and inhabitants, petitions of landowners along with deed records and other information supporting the location and description of the properties will be submitted in accordance to Chapter 43, Subchapter C-3

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

SECTION 1.

The City of Pharr Board of Commissioners hereby directs staff to initiate annexation procedures in accordance with Texas Local Government Code Chapter 43 for approximately 110 acres of land, more or less, generally located East of Veterans Blvd., and North of Military Highway, in the City of Pharr's ETJ in Hidalgo County, Texas, lying adjacent or contiguous to the present corporate city limits of the City of Pharr, said area being generally described and depicted in attached Exhibit "A".

SECTION 2.

That the City of Pharr, in accordance with Texas Local Government Code Section 43.016, prior to beginning annexation proceedings for the above-described area, will offer certain qualified property owners, in these proposed annexation areas, the opportunity to enter into a development agreement.

SECTION 3.

That the City of Pharr staff and City Attorney are hereby directed and authorized, to act in any way necessary, to proceed with annexation efforts within the legal identifiable territory.

SECTION 4.

That the City of Pharr staff is hereby directed to prepare a service plan that provides for the extension of municipal services to the areas proposed to be annexed into the City, as required by Texas Local Government Code Chapter 43.

SECTION 5: SAVINGS CLAUSE.

Except as hereby resolved, any other directives or actions of the City of Pharr, not in conflict with this Resolution, shall remain in full force and effect, unimpaired hereby.

SECTION 6 SEVERABILITY CLAUSE.

The invalidity of any section, clause, sentence or provision of this Resolution shall not affect the validity of any other part thereof. The effects of this Resolution shall at all times be in compliance with state, federal, and other guidelines as directed.

SECTION 7: EFFECTIVE DATE.

This Resolution shall take effect immediately upon passage by the members of the Board of Commissioners of the City of Pharr.

SECTION 8: PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Resolution 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 COMMISSIONERS OF THE CITY OF PHARR, TEXAS, ON THIS THE DAY OF JUNE 2020.

CITY OF PHARR

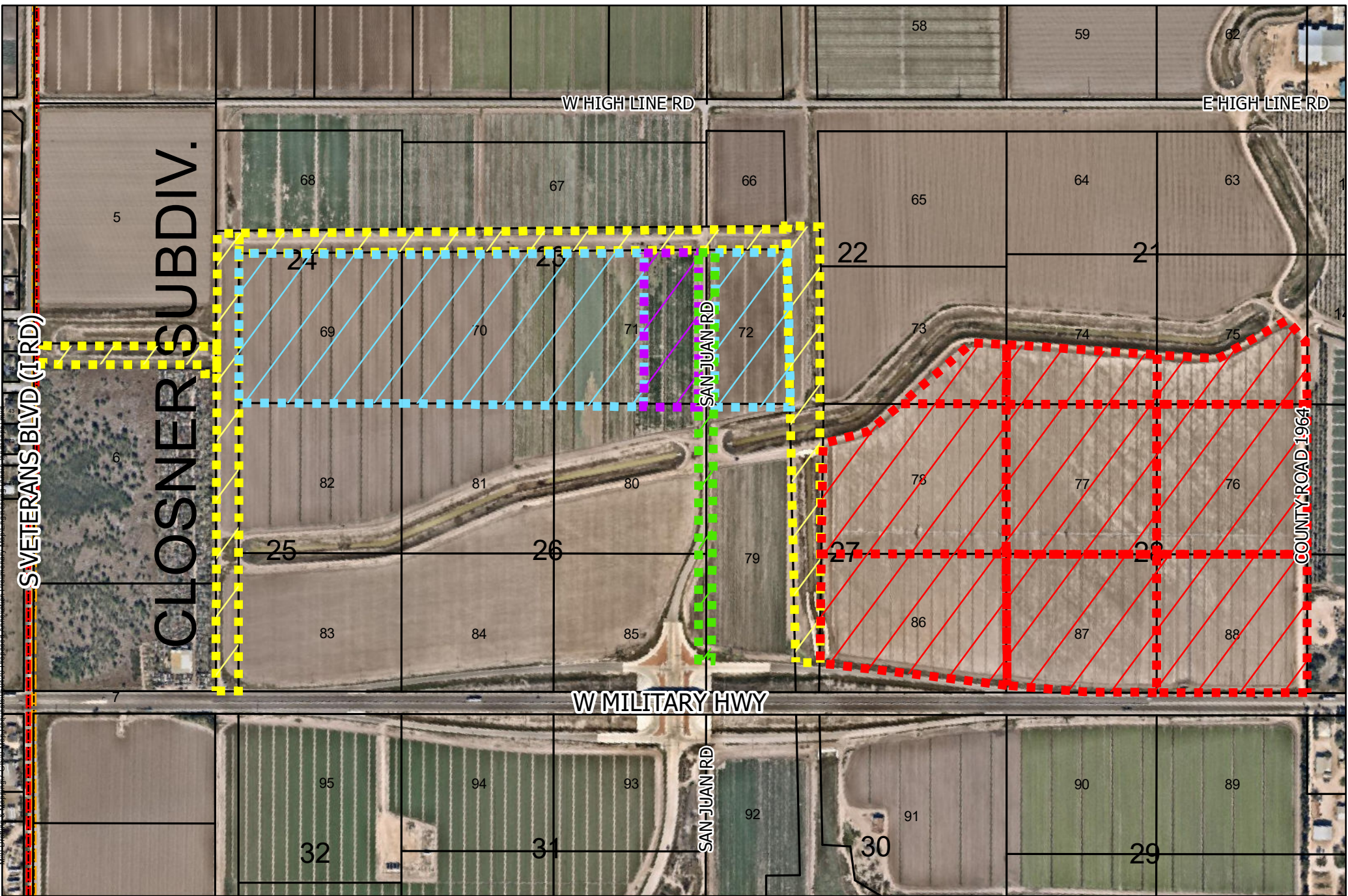
Ambrosio "Amos" Hernandez, Mayor

ATTEST:

Hilda Pedraza, City Clerk

APPROVED AS TO FORM:

Patricia A. Rigney, City Attorney



 HIDALGO COUNTY IRRIGATION DISTRICT #2
 KVS FAMILY LIMITED PARTNERSHIP
 HIDALGO COUNTY REGIONAL MOBILE AUTHORITY

 HIDALGO COUNTY
 FORTCO PROPERTIES LTD.

EXHIBIT A

Approximately 110 Total Acres



1 inch = 550 feet

0 205 410 820 1,230 1,640 feet

All information displayed on this map is subject to verification by field survey or by the agency responsible for maintaining the information. This map is intended for general information only.

City of Pharr, Texas
 Engineering Department
 956.402.4242 Date: 5/21/2020



PROPERTY DESCRIPTIONS

1) OWNER: HIDALGO COUNTY IRRIGATION DISTRICT #2

Tract 1: Being approximately 17.59 acres, containing 1.49ac of land, more or less, out of the north 121 ft of Lot 6 John Closner Subdivision Porcion 71 and 16.10ac of land, more or less, out of San Juan Plantation Blocks 22-27

2) OWNER: KVS FAMILY LIMITED PARTNERSHIP

TRACT 2: A 10.86 acre tract of land, more or less, Lot 69, Block 24, San Juan Plantation Subdivision, Hidalgo County, Texas

TRACT 3: A 10 acre tract of land, more or less, out of Lot 70, Block 23 and a 6.12 acre tract of land, more or less, out of Lot 71, Block 23, San Juan Plantation Subdivision, Hidalgo County Texas

TRACT 6: A 5.4 acre tract of land, more or less, out of Lot 72, Block 22, San Juan Plantation Subdivision, Hidalgo County, Texas

3) OWNER: HIDALGO COUNTY REGIONAL MOBILE AUTHORITY

TRACT 4: A 4.94 acre tract of land, more or less, out of Lot 71, Block 23, San Juan Plantation Subdivision, Hidalgo County, Texas

4) OWNER: HIDALGO COUNTY

TRACT 5: A 3.17 acre tract of land, more or less, known as San Juan Road (right of way)

5) OWNER: FORTCO PROPERTIES LTD.

TRACT 7: A 2.42-acre tract of land, more or less, out of Lot 73, Block 22, San Juan Plantation Subdivision, Hidalgo County, Texas;

TRACT 8: A 3.6-acre tract of land, more or less out of Lot 74, Block 21, San Juan Plantation Subdivision, Hidalgo County, Texas;

TRACT 9: A 3.3-acre tract of land out of Lot 75 Block 21, San Juan Plantation Subdivision, Hidalgo County, Texas;

TRACT 10: A 11.5-acre tract of land, more or less, out of Lot 78, Block 27, San Juan Plantation Subdivision, Hidalgo County, Texas;

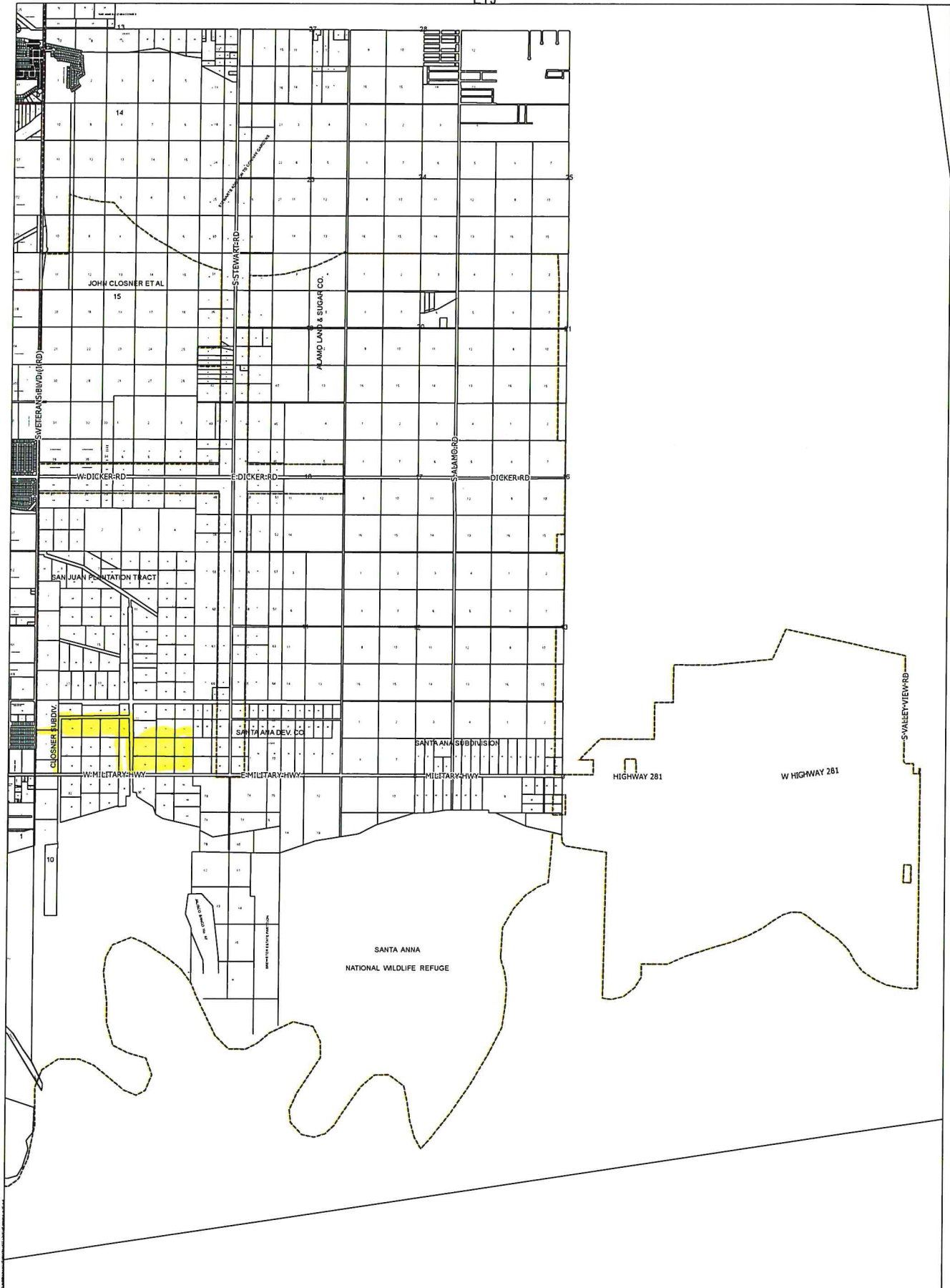
TRACT 11: All of Lot 77, Block 28, San Juan Plantation Subdivision, Hidalgo County, Texas (10 acres)

TRACT 12: All of Lot 76, Block 28, San Juan Plantation Subdivision, Hidalgo County, Texas (10.029)

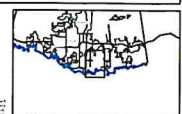
TRACT 13: A 5.5-acre tract of land, more or less, out of Lot 86, Block 27, San Juan Plantation Subdivision, Hidalgo County, Texas

TRACT 14: A 2.81-acre tract of land, more or less, out of Lot 87, Block 28, San Juan Plantation Subdivision, Hidalgo County, Texas;

Tract 15: All of Lot 88, Block 28, San Juan Plantation Subdivision, Hidalgo County, Texas (8.89)



Pharr City Limit
 Pharr ETJ





AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 7.A.

DATE SUBMITTED: May 27, 2020

MEETING DATE: June 1, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR:

Agenda Item: Consideration and action, if any, on acceptance of the City of Pharr Hi-Line 16-in. Waterline Project and authorization to release final payment and retainage in the amount of \$40,947.98. (Project #1819-60-583-C015-051)

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: Castle Enterprises, LLC has completed the City of Pharr 16-in Waterline Project. A final walk through was held in May 18, 2020, and improvements were completed in general compliance with plans and specifications.

Financial Consideration:

Staff Recommendation: Staff recommends approval of Final Payment and release of the Retainage in the amount of \$40,947.98

Alternatives:

ROUTING:

Omar Anzaldua

Created/Initiated - 5/27/2020

Ignacio Amezcua

Approved - 5/27/2020

Patricia Rigney

Approved - 5/27/2020

Karla Saavedra

Approved - 5/27/2020

City Management Office

Final Approval - 5/29/2020



TBPE Firm # F-1435
TBPLS # 10096900

MELDEN & HUNT INC.

CONSULTANTS • ENGINEERS • SURVEYORS

FRED L. KURTH • ALLAN F. BOOE • KELLEY A. HELLER-VELA • ROBERTO N. TAMEZ • MARIO A. REYNA

April 9, 2020

Omar Anzaldua, P.E.
City of Pharr
118 S. Cage
Pharr, TX 78577

RE: Hi-Line Road Waterline Improvements

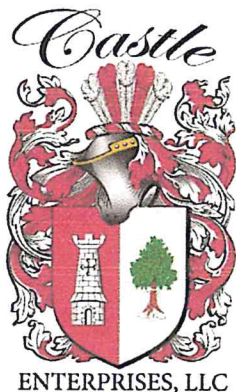
Dear Mr. Anzaldua:

We have inspected the above referenced project and find that it has been completed by Castle Enterprises, LLC of Monte Alto, Texas according to the plans and specifications. The warranty period began March 3, 2020 and ends March 2, 2021.

Sincerely,

Fred L. Kurth, P.E.
Project Engineer

FLK:cs



Thursday, April 9th, 2020

Project Owner: City of Pharr – 118 South Cage Blvd, Pharr Texas 78577

Project Name: City of Pharr – Hi-Line 16" Waterline Project

Project Location: Off of South Cage Blvd & East Hi-Line Road

WARRANTY LETTER

Dear Gentlemen,

The project mentioned above was substantially completed as of March 3rd, 2020 in accordance with the scope of work outlined in the contract documents.

Castle Enterprises, LLC, guarantees the labor and materials associated with City of Pharr – Hi-Line 16" Waterline Project

Labor: For a period of One (1) year commencing on the date of Substantial Completion. Any defect in labor work will be repaired at no cost to the owner. This contractor shall be notified in writing of any deficiencies prior to the One (1) year from the date of Substantial Completion, at which time the warranty expires.

After the period of One (1) year, any labor for removal, installation, and accordingly after the period of One (1) year replacement of any defective parts will be at the owner's expense.

The above warranty does not cover additional owner instruction, set-up, or adjustment. Likewise, this warranty does not cover normal wear and tear, cosmetic damage, or damage caused by acts of nature, accidents, negligence, misuse, abuse or lack of routine maintenance, or modification to any part of the system, by anyone other than Castle Enterprises, LLC.

Certifying Signature: Linda Castell Date: 4/9/2020

Affidavit of Payment and Release of Liens
--

THE STATE OF TEXAS { Texas
 {
COUNTY OF HIDALGO { Hidalgo

Linda Castillo, doing business as Castle Enterprises, LLC, hereinafter "Contractor," for good and valuable consideration, the receipt of which is hereby acknowledged, **hereby unconditionally waives and releases: (i) any claim he now has or hereafter may have against City of Pharr (herein defined Owner) and (ii) any and all liens and claims or rights of lien which he now has or hereafter may have upon the real property described on Exhibit "A" as the Hi-Line 16" Waterline Project (herein defined as property); attached hereto and made a part hereof for all purposes, and on any personal property located on the real property collectively referred to as the "Property;"** on account of labor, materials, supplies, equipment, or otherwise, furnished by Contractor to, or on account of, or for the Property, pursuant to a contract, hereinafter "Contract," dated **July 31st, 2019** among Contractor and Owner. City of Pharr hereinafter "Owner," is the owner of the Property on which Contractor furnished labor, materials, supplies and/or equipment pursuant to the Contract.

Contractor further represents and warrants to Owner that following Owner's final retainage payment of \$40,947.98 through the City of Pharr to or on behalf of Contractor, Contractor has been paid the full amount due to Contractor under the Contract, and that Contractor: (i) has likewise paid all or will use the monies he receives from this final payment to promptly pay in full all of its laborers, subcontractors and suppliers who provided labor and materials or supplies or equipment, or any of them, or otherwise, in connection with the Contract

Contractor understands and agrees that this release in no way discharges Contractor from his obligations of warranty of material and/or workmanship under the Contract. Without limiting the foregoing, Contractor represents and warrants to Owner that all work performed by him or under his direction on the Property has been completed in accordance with plans and specifications and the terms of the Contract.

The person signing this document represents that he or she is duly authorized to do so on behalf of the Contractor.

All of the provisions of this document shall be binding on the Contractor and his successors and assigns and shall inure to the benefit of Owner and the County of Hidalgo and their respective successors and assigns.

Executed effective as of the 9th day of April 2020,

Linda Castell

Signature

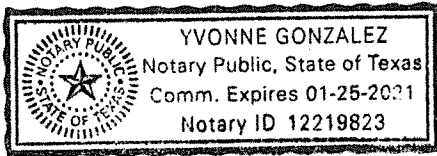
Linda Castillo, Owner

Name and Title

THE STATE OF TEXAS {
COUNTY OF HIDALGO {

This instrument was acknowledged before me on this the 9th day of April, 2020, by Linda S. Castillo, Owner
(title)

of and on behalf of Castle Enterprises, LLC
(a corporation) (a partnership) (an individual)



[Signature]
Notary Public, for the State of Texas

Notary Seal above



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 8.A.

DATE SUBMITTED: May 20, 2020

MEETING DATE: June 1, 2020

FROM: Leonardo Perez, Fire Chief

DEPARTMENT: Fire

DIRECTOR: Leonardo Perez

Agenda Item: Consideration and action, if any, on the purchase of rescue tools for the new Fire Department Rescue Truck from Municipal Emergency Services through HGAC pricing in the amount of \$87,301.49. (Project No. 1920-01-515-P023-001)

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: This is a budgeted item for this fiscal year to replace old tools on our current rescue truck and upgrade the new ordered rescue truck. These tools will increase our capabilities to respond to rescue situations like confined space, trench, vehicle, and trailer emergencies.

Financial Consideration: This item is budgeted for fiscal year 2019-2020 and has a current balance of \$ 100,016.99 for tools and equipment for the new rescue truck.

Staff Recommendation: Staff recommends approval of this budgeted item.

Alternatives:

ROUTING:

Leonardo Perez

Created/Initiated - 5/20/2020

Ignacio Amezcua

Approved - 5/20/2020

Anali Alanis

Approved - 5/28/2020

Patricia Rigney

Approved - 5/28/2020

Karla Saavedra

Approved - 5/28/2020

City Management Office

Final Approval - 5/29/2020



MES - Texas
600 Century Plaza Dr.
Suite C-160
Houston, TX 77073

Quote

Page 1 of 2

Date

05/11/2020

Quote #

QT1349829

Expires

08/11/2020

Sales Rep

Guzman, Patrick L

PO #

Shipping Method

FedEx Ground

Bill To

PHARR FIRE DEPARTMENT
118 S CAGE, 3RD FLOOR
PHARR TX 78577
United States

Ship To

PHARR FIRE DEPARTMENT
118 SOUTH CAGE
3RD FLOOR
PHARR TX 78577
United States

Item	Alt. Item #	Units	Description	QTY	Unit Sales Pri...	Amount
CTC-6002			TeleCrib Truck Kit Includes: (2) long struts, (2) short struts, (4) ratchet straps, (1) screw jack head, (1) AFrame head, (1) spike foot, (1) hook cluster, (1) cinch ring, (1) spare strut pin, (1) spare base pin, (1) large accessory bag, (1) instructional DVD.	2	4,908.18	9,816.36
CTC-1002			Junior Engine Combo -Includes: (2) TeleCrib® Junior Struts and (1 pair) Shark™ Junior Step Chocks (2) TeleCrib® Junior Struts and (1 pair) Shark™ Junior Step Chocks	2	2,746.36	5,492.72
CTC-503			TeleCrib Strut Jack	4	953.64	3,814.56
CTC-520			Picket: 1" diameter x 4' long x 2 3/4" head	8	126.36	1,010.88
CTC-518			"SPECIAL REQUEST ONLY" Tri-Pod Head	2	627.27	1,254.54
CTC-521			Heavy Chain:3/8"X20',Grade 70,Grab Hooks,6600LB Working Head	2	108.18	216.36
272799000			S 799E2 Cutter Package (includes S 799E2 Cutter, charger, and 2 EXL batteries)	1	10,830.71	10,830.71
274085000			R 421E2 Ram Package (includes R 421E2 Ram, charger, and 2 EXL batteries)	1	7,720.57	7,720.57
271555000			SP 555E2 Spreader Package w/ charger and 2 EXL batteries	1	11,028.79	11,028.79
106R162			VCB 30 C.Tec 12 (includes 2 protection caps)	6	2,682.86	16,097.16
1000012100			Connection Plate	4	295.71	1,182.84
1700075300			Y-Adapter, 12 Bar	2	130.29	260.58
266R179			Pressure Regulator (6,000 PSI) with 5' hose	2	612.86	1,225.72
1200001700			Air CU Deadman Controller 12 bar with lights	2	865.71	1,731.42
1200003500			Inflation Hose with Shut-off 12 bar, 32 Ft/5 m, Yellow	2	188.57	377.14
1200003600			Inflation Hose with Shut-off 12 bar, 32 Ft/5 m, Blue	2	188.57	377.14
1200003800			Inflation Hose with Shut-off 12 bar, 32 Ft/5 m, Red	2	188.57	377.14
1000013100			Case for Accessories	2	384.00	768.00
273100000			StrongArm Fire 100E Pkg Blue w/ 2 tips, 2 batt. & 1 charger	2	6,459.43	12,918.86



Quote

Page 2 of 2

Date _____

Quote #

05/11/2020

QT1349829

Item	Alt. Item #	Units	Description	QTY	Unit Sales Pri...	Amount

Subtotal	86,501.49
Shipping Cost (FedEx Ground)	800.00
Total	\$87,301.49

HGAC Contract # EE08-19

This Quotation is subject to any applicable sales tax and shipping & handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current local tax information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1349829



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 9.A.

DATE SUBMITTED: May 22, 2020

MEETING DATE: June 1, 2020

FROM: Jose Luengo, Police Chief

DEPARTMENT: Police

DIRECTOR: Jose Luengo

Agenda Item: Consideration and action, if any, on Business Associate Addendum (BAA) with Hidalgo County Health and Human Services Department.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason: N/A

Issue: Who: Pharr Police Department and Hidalgo County Health and Human Services Department

What: City of Pharr may receive information from Hidalgo County Health and Human Services Department, or create, receive, maintain or transmit such Protected Health Information on behalf of the Hidalgo County Health and Services Department in order to perform certain services

Where: Pharr, TX

When: June 1, 2020

Why: Addendum is needed to comply with the Health Insurance Portability and Accountability Act of 1996.

Financial Consideration: no fiscal considerations at this time.

Staff Recommendation: I recommend approval

Alternatives: Alternative is to not approve addendum

ROUTING:

Jose Luengo
Anali Alanis
Patricia Rigney

Created/Initiated - 5/22/2020
Approved - 5/28/2020
Approved - 5/28/2020

City Management Office

Final Approval - 5/29/2020

HIDALGO COUNTY HEALTH AND HUMAN SERVICES DEPARTMENT BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("BAA" or "Addendum") to the Underlying Agreement as referenced below is made and entered into as of the ____ day of _____, 20__ (the "Effective Date"), by and between the **County of Hidalgo, Texas by and through the Hidalgo County Health and Human Services Department** ("Covered Entity") and _____ ("Business Associate") (as defined below and collectively the "Parties") to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), privacy standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160 and 164 subparts A and E ("the Privacy Rule") and security standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160, 162 and 164, subpart C ("the Security Rule"), and the modifications to HIPAA provided by Division A, Title XIII of the American Recovery and Reinvestment Act of 2009, known as The Health Information Technology for Economic and Clinical Health, Act 42 U.S.C. §3000 et. seq., and implementing regulations and guidance, including the regulations implemented in 78 Fed. Reg. 5566 (January 25, 2013).

WHEREAS, Covered Entity and Business Associate have entered or are entering into an Agreement (the "**Underlying Agreement**") by which the Covered Entity has engaged Business Associate to perform services;

WHEREAS, Covered Entity possesses and is permitted to manage Protected Health Information (PHI) that is protected under HIPAA, House Bill 300 (HB 300)¹ and the HIPAA Regulations, HITECH Act and state law, including the Texas Medical Records Privacy Act (MRPA)², and Parties desire to comply with the privacy and security protections contained therein;

WHEREAS, Business Associate may receive such information from Covered Entity, or create, receive, maintain or transmit such information on behalf of Covered Entity, in order to perform certain of the services under the Underlying Agreement;

WHEREAS, Covered Entity wishes to ensure that Business Associate will appropriately safeguard Protected Health Information;

WHEREAS, the HIPAA Rules require that Covered Entity receive adequate assurances that Business Associate will comply with certain obligations with respect to the PHI received in the course of providing services to or on behalf of Covered Entity; and

WHEREAS, parties desire and agree to enter into this Addendum to the Underlying Agreement.

NOW THEREFORE, Covered Entity and Business Associate agree as follows:

A. Definitions. For purposes of this BAA:

1. **"Business Associate"** shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this Addendum, shall mean the person or entity indicated above.
2. **"Covered Entity"** shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this Addendum, shall mean the County of Hidalgo
3. **"Individual"** shall have the same meaning as the term "individual" in 45 CFR § 164.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
4. **"HIPAA Rules"** shall mean the Privacy, Security, Breach Notification, and Enforcement Rules and amendments codified and promulgated at 45 CFR Parts 160, 162, and 164 and the HITECH Act.
5. **"Protected Health Information"** or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR § 164.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
6. **"Required By Law"** shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
7. **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his or her designee.
8. **Breach** shall have the meaning given such term under 45 C.F.R. § 164.402 as such regulation is revised from time to time.
9. **Breach of System Security** means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of Sensitive Personal Information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data.
10. All other capitalized terms used in this Addendum shall have the meanings set forth in the applicable definitions under the HIPAA Rules and the HITECH Act, as amended.

B. Obligations and Activities of Business Associate

¹ House Bill 300 passed by Texas Legislature on September 1, 2012, to enhance safeguards for Protected Health Information (PHI).

² Texas Medical Records Privacy Act, codified in Section 181 et seq. of the Texas Health and Safety Code and as implemented through regulations including the Standards Relating to the Electronic Exchange of Health Information, codified at Title 1, Section 390.1 et seq. of the Texas Administrative Code.

1. Business Associate agrees to not use or disclose PHI other than as permitted or required by this BAA or as Required by Law.
2. Business Associate agrees to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent the use or disclosure of PHI other than as provided for by this BAA. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any paper or electronic PHI it creates, receives, maintains, or transmits on behalf of Covered Entity.
3. Business Associate shall have procedures in place to mitigate and agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA.
4. Business Associate agrees to report immediately, but no later than three (3) days, to Covered Entity any use or disclosure of PHI not provided for by this BAA of which it becomes aware including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware. Breach notification will be written in plain language and will include, to the extent possible or available, the following:
 - a. The identification of the individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired or disclosed during the Breach;
 - b. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach;
 - c. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether the full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - d. Any steps Individuals who were subjects of the Breach should take to protect themselves from potential harm that may result from the Breach;
 - e. A brief description of what Business Associate is doing to investigate the Breach, to mitigate the harm to individuals, and to protect against further Breaches; and
 - f. Contact procedures for individuals to ask questions or learn additional information, including a toll free telephone number, an email address, Web site, or postal address.
5. Business Associate agrees to ensure that any agents or subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
6. Business Associate agrees to provide access, at the request of Covered Entity, in a reasonable time and manner, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual, in order to meet the requirements under 45 CFR § 164.524.
7. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in a reasonable time and manner.
8. Business Associate agrees to make internal practices, books, and records including policies and procedures and PHI relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary, in a reasonable time and manner, for the purpose of permitting the Secretary to determine Covered Entity's compliance with the HIPAA Rules.
9. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
10. Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time, information collected in accordance with Section B.(10) of this BAA, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

11. Business Associate agrees, to the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, to comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).
12. Training. Business Associate shall provide such training in the privacy and security of PHI to its Workforce (as that term is defined by 45 C.F.R. § 160.103) as is required for Business Associate's compliance with HIPAA, HIPAA Regulations, HITECH, and the MRPA.
13. Sanctions. Business Associate shall apply appropriate sanctions in accordance with Business Associate's policies against any employee, subcontractor or agent who uses or discloses Covered Entity's PHI in violation of this Addendum or applicable law.

C. Permitted Uses and Disclosures of PHI by Business Associate

1. Parties agree to comply with HIPAA, HIPAA Rules, HB 300, the HITECH Act, and the MRPA.
2. Performance of Services. Except as otherwise permitted by this Addendum, Business Associate may create, receive, maintain or transmit PHI on behalf of Covered Entity only in connection with the performance of the services contracted for in the Underlying Agreement or as Required by Law (as that term is defined by 45 C.F.R. § 164.103).
3. Business Associate may only use or disclose PHI as permitted by the HIPAA Rules. Business Associate may use or disclose PHI to perform, manage and administer the activities or services required under the Underlying Agreement or other such arrangement between Covered Entity and Business Associate, including the de-identification of PHI, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity.
4. Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
5. Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
6. Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
7. Minimum Necessary. Business Associate shall limit its uses and disclosures of, and requests for, PHI, to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request.
8. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).
9. Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164, or MRPA, if done by the Covered Entity itself, except for the specific uses and disclosures set forth above.

D. Obligations of Covered Entity

1. Covered Entity shall notify Business Associate of any limitations in its notice(s) of privacy practices in accordance with 45 CFR § 164.520 to the extent that such limitations may affect Business Associate's use or disclosure of PHI.
2. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent such changes may affect Business Associate's use and disclosure of PHI.
3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522 to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

E. Restriction on Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity, except Business Associate may use or disclose PHI for data aggregation or management and administrative activities of Business Associate.

F. Term and Termination

1. Term. The Term of this BAA and the obligations herein shall be deemed effective on the Effective Date and shall continue unless or until this Addendum terminates, the Underlying Agreement terminates, or the Business Associate has completed performance of the services in the Underlying Agreement, whichever is earlier.
2. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - a. Provide an opportunity for Business Associate to cure the material breach or end the violation and terminate this BAA and Covered Entity's participation in the Addendum if Business Associate does not cure the material breach or end the violation within the reasonable time specified by Covered Entity; or
 - b. Immediately terminate this BAA and Covered Entity's participation in the Addendum if Business Associate has breached a material term of this BAA and a cure is not possible.
3. Effect of Termination.
 - a. Upon termination of this BAA for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.
 - b. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction not feasible, including the need to retain PHI for audit, justification of work product or compliance with pharmacy or other applicable law. Business Associate shall extend the protections of this BAA to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such PHI.
 - c. Injunctions. Covered Entity and Business Associate agree that any violation of the provisions of this Addendum may cause irreparable harm to Covered Entity. Accordingly, in addition to any other remedies available to Covered Entity at law or in equity, Covered Entity shall be entitled to seek an injunction or other decree of specific performance with respect to any violation of this Addendum or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages.
 - e. **Indemnification. This indemnification provision is enforceable against the Parties only to the extent authorized under the constitution and laws of the State of Texas. The Parties will indemnify, defend and hold harmless each other and each other's respective employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "indemnified party," against all actual and direct losses suffered by the indemnified party and all liability to third parties arising from or in connection with any breach of this Addendum or of any warranty hereunder or from any negligence or wrongful acts or omissions, including failure to perform its obligations under MRPA, HIPAA, the HIPAA Rules, and the HITECH Act by the indemnifying party or its employees, directors, officers, subcontractors, agents or other members of its workforce.**

G. Miscellaneous

1. Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect, or as amended, and for which compliance is required.
2. Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of and changes in state and federal laws and regulations relating to the privacy, security and confidentiality of PHI. This BAA may be amended only in writing when signed by a duly authorized representative of each Party.
3. Survival. The respective rights and obligations of Business Associate under Section F.(3) of this BAA shall survive the termination of this BAA.

4. Interpretation. Any ambiguity in this BAA or in the Underlying Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules.
5. Conflicts. To the extent that this BAA may conflict with the Underlying Agreement, this BAA shall govern.
6. Governing Law. This Addendum is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of Texas without regard to choice of law principles.
7. Notice: Except as may be otherwise specifically provided in this Addendum, all notices, demands, requests or communications 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 in the Underlying Agreement with copy to:

The Hidalgo County Health and Human Services Department
Attn: Chief Administrative Officer
1304 S. 25th Ave.
Edinburg, Texas 78539

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.

8. No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended or shall be deemed to confer upon any person other than Covered Entity, Business Associate, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
9. Written Authorization. Nothing in this Addendum shall be construed to require Business Associate to use or disclose PHI without written authorization from an individual who is a subject of the PHI, or written authorization from any other person, where such authorization would be required under state law for such use or disclosure.
10. Offshore Work. In performing the functions, activities or services for, or on behalf of Covered Entity, Business Associate shall not, and shall not permit any of its agents or subcontractors who receive Covered Entity's PHI to, transmit or make available any PHI to any entity or individual outside the United States without prior written consent of Covered Entity.
11. Privilege. Notwithstanding any other provision in this Addendum, this Addendum shall not be deemed to be an agreement by Business Associate to disclose information that is privileged, protected, or confidential under applicable law to the extent that such privilege, protection or confidentiality (a) has not been waived or (b) is not superseded by applicable law.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their respective duly authorized representatives in the manner legally binding upon them as of the effective date first written above.

BUSINESS ASSOCIATE:

By: _____
(Authorized Signature)

Name: _____
(Type or Print)

Title: _____

Date: _____

COVERED ENTITY:

THE HIDALGO COUNTY HEALTH AND HUMAN SERVICES
DEPARTMENT

By: _____
(Authorized Signature)

Name: _____
(Type or Print)

Title: _____

Date: _____



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 9.B.

DATE SUBMITTED: May 27, 2020

MEETING DATE: June 1, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR:

Agenda Item: Consideration and action, if any, awarding Supply Contract for the Traffic Signal Loop Detector Replacement Project. (Bid No.1920-40-510-C036-034)

Classification: Regular

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

Exclude Material from Public Packet? No

Reason: N/A

Issue: The Purchasing and Contracting Department received one (1) bids for the above referenced services. (bid tabulation attached)

These services are needed for the maintenance of existing traffic signals and in the installation of new traffic signals to detect traffic queue and the presence of vehicles approaching an intersection.

Financial Consideration: Estimated Construction Amount \$129,000

Payment & Performance Bonds \$7,740

Total \$136,740

Staff Recommendation: Staff requests authorization to award a Construction Contract for Traffic Signal Loop Detector Replacement Services to the sole bidder D & G Energy Corp, from McAllen, Texas, for a period of one (1) year. If awarded, staff is requesting authorization, with City Manager approval, to exercise the option to extend the contract for an additional two (2) years, in one (1) year increments, subject to performance of the successful bidder being satisfactory and the unit price(s) remaining unchanged. In the event that the selected vendor fails to meet or perform under the terms and conditions of awarded contract, we would like to have the Commissions authorization to terminate such contract, with City Manager approval and re-advertise affected item(s).

Alternatives: N/A

ROUTING:

Omar Anzaldua	Created/Initiated - 5/27/2020
Omar Anzaldua	Approved - 5/27/2020
Pilar Rodriguez	Approved - 5/28/2020
Ignacio Amezcua	Approved - 5/28/2020
Patricia Rigney	Approved - 5/29/2020
Karla Saavedra	Approved - 5/29/2020
City Management Office	New -

 Pharr
P u r c h a s i n g
CITY OF PHARR
PURCHASING DEPARTMENT
MEMORANDUM

DATE: May 26, 2020

TO: Omar Anzaldua, P.E., City Engineer

CC: Pilar Rodriguez, Interim Public Works Director

FROM: Ignacio Amezcua, Purchasing Director \A

SUBJECT: Project #1920-40-510-C036-034
Traffic Signal Loop Detector Replacement Project

Attached please find an “electronic” copy of the bid tabulation. Bid documents can be accessed on Procureware at <https://pharr.procureware.com>.

Kindly submit your written recommendation to Purchasing by Tuesday prior to the City Commission agenda deadline. (To allow ample time for review and concurrence your proposed recommendation).

If any additional information is needed, please advise.

Attachment: Bid Tabulation



Pharr

Purchasing



BID OPENING: MAY 22, 2020 AT 3:00 P.M.

LOCATION: City Commission Room

PROJECT NO.: 1920-40-510-C036-034 TRAFFIC SIGNAL LOOP DETECTOR REPLACEMENT PROJECT

BIDDERS						D&G ENERGY MCALLEN, TX
ITEM	INTERNAL REFERENCE NO.	SECTION	DESCRIPTION	UOM	APPX. QTY	UNIT PRICE
1	968-82-01002	16341	TOTAL AMOUNT BID PER LINEAL FT. - VEHICLE LOOP DETECTORS (ASPHALT)	L.F	12,000	\$8.75
2	968-82-01003	16341	TOTAL AMOUNT BID PER LINEAL FT. - VEHICLE LOOP DETECTORS (CONCRETE)	L.F.	2000	\$12.00
3	968-82		BOND RATE FOR PERFORMANCE BOND (AMOUNT BID MUST BE EXPRESSED IN PERCENT AMOUNT, i.e. FOR 2% ENTER .02, CONTRACTORS ARE ADVISED NOT TO ENTER A DOLLAR AMOUNT)	EA	1	0.03
4	968-82		BOND RATE FOR PAYMENT BOND (AMOUNT BID MUST BE EXPRESSED IN PERCENT AMOUNT, i.e. FOR 2% ENTER .02, CONTRACTORS ARE ADVISED NOT TO ENTER A DOLLAR AMOUNT)	EA	1	0.03
HARDCOPY OF BID SUBMITTED						YES
ELECTRONIC BID SUBMITTED						YES
5% BID BOND						YES



Pharr

Public Works



DATE: May 26, 2020

TO: Ignacio Amezcua, Purchasing Director

FROM: Pilar Rodriguez, PE, Interim Director of Public Works

PR

SUBJECT: Project 1920-40-510-CO36-034
Traffic Signal Loop Detector Replacement Project

I have reviewed the bid tabulations for the subject project and recommend award to the single, responsive and responsible bidder D&G Energy for the following items:

Item 1 – Vehicle Loop Detector (Asphalt) - \$8.75 per linear foot

Item 2 – Vehicle Loop Detector (Concrete) - \$12.00 per linear foot

If you should have any questions or require additional information, please feel free to contact me.

cc: Omar Anzaldua, PE, City Engineer/Interim Utilities Director
Reynaldo Cano, Assistant Director of Public Works
Jose I Perez, Traffic Supervisor
Miguel Rodriguez, Traffic Foreman



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 9.C.

DATE SUBMITTED: May 27, 2020

MEETING DATE: June 1, 2020

FROM: Omar Anzaldua, City Engineer

DEPARTMENT: Engineering

DIRECTOR: Omar Anzaldua

Agenda Item: Consideration and action, if any, authorizing City Manager to amend contract with TEDSI Infrastructure Group Inc. for Construction Support Services for the Construction of the Second BSIF Exit. (Project #1718-01-528-0033)

Classification: Regular

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

Exclude Material from Public Packet? No

Reason: N/A

Issue: The City of Pharr is requesting the authorization from City Commission on approving the City Manager to amend the contract for Construction Support Services with TEDSI Infrastructure Group Inc. for Professional Engineering Services for the Development of Plan for the Second BSIF Exit from the Pharr International Bridge Port of Entry (POE) to the Border Safety Inspection Facility (BSIF)

Financial Consideration:

Original Contract	\$ 34,370.00
Amendment No. 1	\$617,776.00
Amendment No. 2	\$158,605.00
Amendment No. 3	\$19,921.00
Amendment No. 4	<u>\$30,000.00</u>
Revised Contract Total	\$860,672.00

Staff Recommendation: Staff recommends approval of Amendment No. 4 to the contract with TEDSI Infrastructure Group Inc. for Construction Support Services for the Development of Plan for the Second BSIF Exit from the Pharr International Bridge Port of Entry (POE) to the Border Safety Inspection Facility (BSIF) Project in the amount of \$30,000

Alternatives: N/A

ROUTING:

Omar Anzaldua	Created/Initiated - 5/27/2020
Omar Anzaldua	Approved - 5/27/2020
Ignacio Amezcua	Approved - 5/27/2020
Patricia Rigney	Approved - 5/27/2020
Karla Saavedra	Approved - 5/29/2020
City Management Office	Final Approval - 5/29/2020

PROJECT AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

AMENDMENT NO. 4

The Contract between **TEDSI Infrastructure Group, Inc.**, and the **City of Pharr** which was executed by the parties on **April 07, 2016** for the design of the **Development of Plan for Second Exit from Pharr International Bridge Port of Entry (POE) to Border Safety Inspection Facility (BSIF)** is hereby amended by mutual agreement as follows:

A. Modification to Section 1 – Scope of Work – Additional Scope of Work as follows:

The ENGINEER shall provide the following engineer services required for the construction phase for the Pharr Land Port of Entry project. The ENGINEER shall maintain a direct line of communication and coordinate very closely with City of Pharr throughout the project.

CONSTRUCTION SUPPORT SERVICES

- 1) Attend one pre-construction meeting.
- 2) Respond to Contractor RFI's. Contractor RFI's to be submitted in writing through the City of Pharr. No telephone consultations.
- 3) Review and approve contractor shop drawings.
- 4) Revisions to plan sheets, specifications and estimates due to an owner and/or contractor-initiated change orders or differing site condition change order.

ADDITIONAL SERVICES NOT INCLUDED AS PART OF THIS PROJECT

- 1) No onsite construction observation or meetings.
- 2) Services not identified above.

B. Modification to Section 5 – Professional Service Fee – Increase to Fee as outlined in Amendment No. 4- Exhibit B “Fee Summary”

This amendment adds **\$30,000.00** to the contract and the maximum total payable under the entire contract, including all amendments, is changed from \$ 830,672.00 to **\$ 860,672.00.**

All other terms and conditions of the existing contract not changed by this Amendment shall remain in full force and effect.

APPROVAL OF AMENDMENT NO. 4

**TEDSI Infrastructure Group, Inc..
1201 East Expressway 83
Mission, TX 78572**

ENGINEERING FIRM

By:_____

(ENGINEER)

SIGNED on this the _____ day of _____, 20 ____.

Ed Wylie
Interim City Manager
City of Pharr, Texas

SIGNED on this the _____ day of _____, 20 ____.

**PHARR LAND PORT OF ENTRY
WORK AUTHORIZATION NO.1
SUPPLEMENTAL AGREEMENT NO.1
ATTACHMENT "B" FEE PROPOSAL**

ITEM	
A. CONSTRUCTION SUPPORT SERVICES	
MEETINGS	
RESPOND TO RFI'S	
SHOP DRAWINGS REVIEW AND APPROVAL	
CHANGE ORDERS	
TOTAL FEE PROPOSAL (LUMP SUM)	\$30,000

DONATION ACCEPTANCE AGREEMENT
BY AND BETWEEN
THE UNITED STATES OF AMERICA,
ACTING BY AND THROUGH
THE U.S. DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS AND BORDER PROTECTION,
AND
THE U.S. GENERAL SERVICES ADMINISTRATION,
PUBLIC BUILDINGS SERVICE,
AND
THE CITY OF PHARR, TEXAS

I. PARTIES

The United States of America (“United States”), acting by and through the U.S. Department of Homeland Security, U.S. Customs and Border Protection (“CBP”), and the U.S. General Services Administration (“GSA”), are entering into this Donation Acceptance Agreement (“Agreement”) with the City of Pharr, Texas (“Donor”), to facilitate the proposed donation of infrastructure improvements to real property, personal property and non-personal services, at the Pharr Land Port of Entry (“Pharr LPOE”) located in Pharr, Texas. GSA, CBP and Donor are collectively referred to herein as the “Parties” and each individually as a “Party.”

II. PURPOSE

The purpose of this Agreement is to memorialize the mutual understanding of the Parties regarding the proposed donation to the United States and the terms and conditions of that donation.

As described in Donor’s final detailed scope, site plans, drawings and specifications, and cost estimates for the project, Donor seeks to construct and donate: (a) a new agriculture inspection and training facility, (b) personal property to fully outfit the new facility, and (c) 24 new commercial secondary inspection bays, of which 13 will be capable of food grade certified cold inspection equipment.

Donor has submitted the following documentation to GSA and CBP to facilitate acceptance and approval of the project:

- Scope of Work for the project to be donated to the United States, attached hereto as Exhibit A and incorporated herein by reference, which explains all work to be performed on the federal property during construction and how the work meets the requirements in the GSA and CBP reference documents listed in section 5, below;

- Preliminary project schedule, attached hereto as Exhibit B and incorporated herein by reference;
- Detailed project cost estimate, attached hereto as Exhibit C and incorporated herein by reference; and
- Construction documentation package, including plans, drawings and specifications, attached hereto as Exhibit D and incorporated herein by reference.

This Agreement outlines the principles, terms and conditions that will govern this donation and defines and establishes the joint project management framework, membership, roles, and responsibilities of the GSA, CBP and Donor project teams for the construction, construction management and donation of the inbound commercial inspection and training facilities, including supporting infrastructure, equipment and technologies, at the Pharr LPOE. Once completed and upon conveyance of the property to the United States, the entirety of the donation, including the improvements constructed on federal property, will become the property of the United States, subject to a minimum of a one-year warranty of construction as described in greater detail in subsection 7.D and section 17, below, and Donor's obligation to be financially responsible for all costs and expenses relating to the operation, maintenance and repair of the donated property as described in greater detail in subsection 7.C, below.

III. AUTHORITY

The proposal for this donation was originally accepted under the authority of 559 of title V of division F of the Consolidated Appropriations Act, 2014 (6 U.S.C. 211 note; Public Law 113-76) and can continue under that authority in accordance with 6 U.S.C. § 301b. In addition, GSA and CBP now has authority to accept such donations under 6 U.S.C. § 301a, and more generally, the Homeland Security Act of 2002, 6 U.S.C. § 112 *et seq.*, as amended.

IV. CONSIDERATION AND MUTUALITY OF OBLIGATIONS

It is the agreement of the Parties and the intention and wish of Donor that the donation under this Agreement will constitute Donor's binding obligation and will be enforceable at law and equity, including against Donor and Donor's successors and assigns. Donor acknowledges that GSA and CBP are relying, and will continue to rely, on Donor's donation being fully satisfied as set forth herein and that the United States is willing to accept the donation subject to the terms and conditions set forth in this Agreement. In consideration for the donation, GSA will enter into a site access or other similar agreement with Donor authorizing Donor to enter onto the Pharr LPOE property to carry out its responsibilities under this Agreement. The United States further agrees to accept the donation upon completion, provided it is constructed and accepted in accordance with the terms and conditions of this Agreement, and to use the donation in aid of operating the Pharr LPOE, subject to the terms and conditions of this Agreement, operational need, and available appropriated and budgeted funding which determinations are to be made in the sole discretion of CBP or GSA, as applicable, by taking into consideration competing operational priorities.

V. SCOPE OF WORK

The agreed-upon scope of the project is described in the attached Exhibit A. Any subsequent modifications to the agreed-upon scope of work and the associated costs must be reviewed and approved by the Parties before taking effect, as described in greater detail in this section and section 27.

The Parties further acknowledge that the project must comply with all applicable state and federal laws, regulations, directives, policies, and technical and security standards, and all Project Documents (defined below) required to be prepared by or on behalf of Donor and approved by GSA and CBP under this Agreement.

Donor agrees that the project has been designed and will be executed in compliance with the following reference documents and authorities, as such documents and authorities may be revised from time to time by GSA, CBP or other entities within the Federal Government, as applicable:

- *CBP Centralized Area Video Surveillance System Design Guide Standards* (2014 version);
- *CBP Land Port of Entry Design Standards* (2018 version);
- *CBP National Cabling Standards* (2013 version);
- *CBP Security Policy and Procedures Handbook* (2019 version);
- *CBP Voice/Data Communications Room Requirements* (2009 version);
- *GSA Design Excellence Policies and Procedures* (<http://www.gsa.gov/portal/content/103738>);
- *GSA Facilities Standards for the Public Buildings Service, PBS-P100* (2018 version) (“PBS-P100”);
- *National Environmental Policy Act of 1969, as amended* (“NEPA”);
- *National Historic Preservation Act of 1966, as amended* (“NHPA”);
- *Homeland Security Presidential Directive 12* (“HSPD-12”);
- *Executive Order 11423, as amended by Executive Order 13337*, on Presidential permits; and *Executive Order 13834 – Efficient Federal Operations*.

Donor acknowledges that the United States will conduct independent NEPA and NHPA analyses of the property to be donated, if required, and Donor will be responsible for providing timely comments and information, including NEPA and NHPA studies and drafts, as necessary and requested by either CBP or GSA, to enable the United States to comply with all applicable environmental and historic preservation laws.

GSA and CBP reserve the right to identify additional references as the project progresses, subject, however, to the requirement that once the scope of the project is finalized and agreed upon by the Parties, any subsequent modification to the Project Documents is subject to the unanimous consent of the Parties.

Donor further agrees to construct the project in accordance with the following documents (collectively, the “Project Documents”), each of which, when finalized, will be attached to this Agreement and incorporated herein by reference:

- Scope of Work (see Exhibit A);
- Preliminary project schedule (see Exhibit B);
- Detailed project cost estimate (see Exhibit C);
- Construction documentation package, including plans, drawings and specifications (see Exhibit D);
- Other related construction documents (see Exhibit E);
- Financial Plan and Statement of Financial Capability (including Long-Term Operation and Maintenance Plan, evidence of capability to support project completion and other relevant provisions, as required) (see Exhibit F);
- NEPA analysis, as required (see Exhibit G);
- NHPA analysis, as required (see Exhibit H);
- Signed Non-Disclosure Agreements (“NDA”) (see Exhibit I), as required; and
- OIT ROM Estimate (see Exhibit J).

Donor agrees not to deviate from the approved Project Documents without the express prior written consent of GSA and CBP. GSA and CBP will only accept the donation once all terms and conditions of this Agreement are satisfied and they have verified that the property and the improvements constructed thereon are in keeping with the GSA and CBP design specifications referenced above.

VI. ROLES AND RESPONSIBILITIES

GSA, CBP and Donor will each appoint the key members of the project team within one week after full execution of this Agreement. Key team members will include the following officials:

- GSA Project Team Manager;
- CBP Project Manager; and
- Donor Project Manager.

The GSA Project Team Manager will be the primary point of contact to facilitate GSA approvals for the work activities. The Project Managers for CBP and Donor will provide subject matter expertise to the GSA Project Team Manager, as needed, monitor the project, provide approvals, raise issues and concerns to the GSA Project Team Manager, and coordinate activities and progress within their respective organizations.

VII. PROJECT FUNDING

A. Design, Construction and Delivery Costs and Expenses

Donor will be financially responsible for all costs and expenses to design, construct and deliver the completed project, and all other costs and expenses associated with the project, including construction management, the correction of defective or noncompliant work and the repair or replacement of any federal property damaged during the course of project construction and delivery, until completion and acceptance of the final project by GSA and CBP. The estimated and anticipated costs and expenses of designing and constructing the donated property are outlined and itemized in the spreadsheet attached hereto as Exhibit C.

B. Equipment, Technology and Connectivity-Related Costs and Expenses

Equipment, technology and connectivity-related costs and expenses, as described in greater detail in Exhibit J, attached hereto and incorporated herein by reference, will be procured directly by CBP. Donor agrees to provide an upfront monetary donation to CBP for all equipment, technology and connectivity-related costs and expenses, including procuring of the equipment, installation and training, if required, identified in Exhibit J. CBP will retain ownership of all equipment and technology procured by CBP. The CBP Office of Information and Technology's ("OIT") estimate for all initial equipment, technology and connectivity-related costs and expenses at the Pharr LPOE is \$826,821 subject to adjustment to reflect the actual costs and expenses incurred by CBP. The detailed OIT estimate is included as part of Exhibit J. Donor must remit payment to the CBP office and address listed immediately below:

Enterprise Services Office of Finance
Regulatory Reports Section (RRS)
6650 Telecom Drive
Suite 100
Indianapolis, IN 46278
Attn: Dale Gray and Brandi Steinmetz.

Upon installation of all equipment and technology, CBP will send Donor a final receipt of actual costs and expenses incurred by CBP for Donor's records. CBP reserves the right to seek additional money under this donation agreement from Donor should actual equipment, technology and connectivity-related costs and expenses exceed OIT's estimate. Any unused funds provided by Donor will be returned to Donor in accordance with CBP policy and procedures. CBP will owe no interest on funds held and ultimately refunded.

C. Costs and Expenses Relating to Operation, Maintenance and Repair of Donated Property

Upon project completion and acceptance by the United States, Donor will be financially responsible for all costs and operating expenses related to the operation, maintenance and repair of the donated real property. Operating costs and expenses include recurring services, such as cleaning, maintenance and utilities, and non-recurring costs and expenses, such as snow removal, repairs and alterations, grounds keeping, and other operating costs. Donor will be financially responsible for all such costs and expenses

unless and until such time as the United States has the available funding and has specifically obligated funds for such costs and expenses, in GSA's discretion in coordination with CBP. The United States will not reimburse Donor for its incurred costs and expenses nor does this Agreement create any financial liability or obligation on the United States prohibited by the Anti-Deficiency Act (31 U.S.C. §§ 1341(a)(1)(A), 1341(a)(1)(B) and 1517(a)) or otherwise.

The estimated increase in costs and expenses to the United States attributable to the operation and maintenance of the donated real property in Fiscal Year 2021 is \$891,911.20. The cost and expense estimate may fluctuate from year-to-year due to inflation and other factors. Donor agrees to provide an upfront monetary donation to CBP at the beginning of each fiscal year based on the estimate it receives from CBP. CBP will reconcile the estimated costs and expenses against the actual costs and expenses incurred in the fourth quarter of each fiscal year (*i.e.*, July, August and September). In the event that the previous payments from Donor are less than the actual costs and expenses incurred, CBP will send Donor a fourth quarter invoice that will include actual costs and expenses of operation and maintenance year-to-date not yet paid, as well as the estimated amount owed for the fourth quarter. Any unused donated funding at the end of the fiscal year may be retained by CBP to be applied to the following year's operation and maintenance costs and operating expenses or returned to Donor, at Donor's option, in accordance with CBP policy and procedures. CBP will owe no interest on funds held and ultimately refunded.

D. Warranty of Construction

Upon project completion and acceptance by GSA and CBP, the United States of America will own the donated property, subject to a minimum of a one-year warranty of construction to be provided by Donor or Donor's construction company, naming the United States of America, acting by and through the Administrator of General Services and the Secretary of Homeland Security, as a beneficiary, in the form prescribed in Federal Acquisition Regulation ("FAR") subsection 52.246-21, Warranty of Construction.

E. Evidence of Financial Capability

Donor represents that it has the financial capability to perform all of its obligations under this Agreement and to finance the project and agrees to provide updated information to GSA and CBP, as requested, to demonstrate such financial capability. Throughout the project and upon request of GSA or CBP, Donor must provide cost estimates and, upon completion of the project, a certified cost statement for the project to GSA and CBP.

VIII. SITE CONDITIONS

Donor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions that can affect the work or its costs, including (1) conditions bearing upon transportation,

disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance.

The United States is not responsible for any unknown or unforeseen site conditions. Donor acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including exploratory work. Any failure of Donor to take the actions described and acknowledged in this section will not relieve Donor from responsibility for estimating properly the difficulty and cost of successfully performing the work or otherwise relieve Donor of its obligations to perform as set forth in this Agreement.

Should Donor encounter, or GSA or CBP discover, during the progress of the work, subsurface or latent conditions at the site materially differing from those shown in the Project Documents, or unknown conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Project Documents, Donor must immediately cease construction operations under this Agreement and notify the GSA Project Team Manager and the CBP Project Manager before the site is disturbed further. After such notice, the Parties may jointly agree that Donor may continue work under this Agreement in areas not affected by the newly discovered site condition. The GSA Project Team Manager and the CBP Project Manager will thereupon promptly investigate the conditions and, if they find that they do so materially differ, this Agreement will be modified to provide for any revised scope of work or extension of time resulting from such conditions. Any costs caused by such changed conditions will be the sole responsibility of Donor and it is understood that the United States will not be liable or responsible for any such costs or claims for costs. If Donor elects not to modify this Agreement and bear such increased costs, this Agreement may be terminated, subject to the termination and restoration provisions set out in this Agreement.

IX. UTILITIES

To the extent Donor requires use of existing utility outlets and supplies at the Pharr LPOE for performance of the work, Donor agrees to install a separate temporary meter or submeter to measure the cost of that usage. Donor, at its sole cost and expense and in a workmanlike manner satisfactory to GSA and CBP, must install and maintain all necessary temporary connections and distribution lines and all meters and submeters required to measure the amount of each utility used for the purpose of determining charges.

Before final acceptance of the work by the United States, Donor must remove all the temporary connections, distribution lines, meters, and associated equipment, and restore any federally owned property to the condition existing as of the commencement of construction.

X. PROJECT EXECUTION

Donor may proceed with project execution only after this Agreement has been executed, the Parties have satisfied all of the conditions precedent to the commencement of construction and GSA has issued a Notice to Proceed for the construction activity. The commencement conditions include:

- GSA and CBP approval of Donor's construction documents and work plan;
- Evidence of Donor's compliance with insurance requirements imposed by GSA and CBP as set forth in section 18;
- A site access, construction license or other similar agreement that is in full force and effect;
- Evidence of the Donor's financing for all project costs and expenses;
- Evidence that the payment and performance obligations relating to construction are obtained pursuant to this Agreement and assured to GSA and CBP's satisfaction; and
- Evidence that any necessary governmental permits or approvals have been obtained and the project is in compliance with all applicable laws, regulations and code requirements.

The decision whether to move forward with project execution is solely within GSA and CBP's discretion.

All work must be performed in a manner that either avoids or minimizes, to the extent reasonably possible, operational disruptions. Donor agrees to coordinate project activities with the GSA Project Team Manager and the CBP Project Manager to ensure that operational disruptions, if any, are mitigated and managed appropriately.

All work must be performed in a manner that will safeguard the public and United States personnel and property and in accordance with all applicable local, state and federal laws and regulations. Donor must provide the appropriate safety barricades, signs and signal lights at the project site at all times. Donor must keep the work area free from accumulation of waste materials and, upon completion of the project, remove any trash, rubbish, tools, equipment, and materials that are not United States property and leave the work area in a clean, neat and orderly condition satisfactory to GSA and CBP on a daily basis.

All equipment, supplies, material, and articles incorporated into the work should be new and of the most suitable grade for the purpose intended. Donor agrees to perform all work under this Agreement in a skillful and workmanlike manner.

During project execution, GSA and CBP, as applicable, will monitor and engage in the following reviews and activities:

- Issuance of temporary site access, construction license or other similar agreement to Donor;
- Inspection of construction quality and, if necessary, issuance of written field directives setting forth in reasonable detail alleged variances or violations and requesting that Donor take specified corrective action;

- Preparation of written punch list after substantial completion (project is substantially complete when it may be used for its intended purpose and completion of remaining work will not unreasonably interfere with the operation of the property by the United States). Donor's construction contractor must attend the punch list review meeting and provide a written list of all incomplete or deficient installation items with the expectation that additional items may be added in the process of the walk-thru by all parties;
- Coordination with Donor to complete all items identified in the punch list within 20 working days;
- Monitor closeout of the project punch list;
- Staff training for building operations and items covered by the one-year warranty to be provided by Donor;
- Review and approval of as-built documents, including dimensioned and noted underground utility information; and
- Final inspection and acceptance.

Donor is required to (a) commence work under this Agreement within 60 calendar days after the date Donor receives the Notice to Proceed from GSA, (b) prosecute the work diligently and (c) complete the entire work ready for use within the time set forth in the Project Documents. The time stated for completion includes final cleanup of the premises. Donor must update the project schedule monthly to reflect its actual progress in completing the work, and submit the updated project schedule to the GSA Project Team Manager and the CBP Project Manager within five working days of the end of each month or other specified period.

At all times during performance of construction work under this Agreement and until the work is completed and accepted by the United States, Donor must provide full-time on-site professional construction management services for the project. The identity and scope of work of Donor's construction management representative must be approved by the GSA Project Team Manager and the CBP Project Manager. Donor must provide sufficient construction management resources, including personnel responsible for project management, estimating, coordination, inspection, quality assurance, and PBS-P100-required commissioning, to ensure the proper execution and timely completion of the project. From and after the commencement of construction until acceptance of the donation by the United States, Donor's construction manager must provide to the GSA Project Team Manager and the CBP Project Manager information on a regular basis sufficient to apprise GSA and CBP in reasonable detail of the then-current status of the progress of the project, including all meeting minutes, daily reports with labeled photos, testing results, and other inspection-related correspondence, and other written material generally circulated to Donor's contractors and other members of the project team relating to the design and construction of the project, and other materials reasonably requested by the GSA Project Team Manager or the CBP Project Manager. In addition, upon completion of the project, Donor, the contractor and the construction manager must each certify that the construction meets all of the requirements of the Project Documents. CBP, GSA and Donor will establish recurring meetings to discuss the status of the project and will identify specific milestones during which the construction manager will coordinate on-site walkthroughs and inspections with the appropriate CBP and GSA subject matter experts.

The project is complete only when Donor has corrected all punch list items and noted deficiencies and has complied with all conditions in this Agreement.

Upon final acceptance, in writing, by the United States, Donor agrees to provide GSA and CBP with final as-built drawings in AutoCAD format and plans of the donated site improvements, all warranty documentation and all documents necessary for transfer of ownership (such as a bill of sale, clear title evidence, deed of transfer, and final total and itemized costs for the project), and any other reasonable request for documentation related to the project.

XI. AUTHORIZED AREAS

Donor must confine all operations (including storage of materials) on the federal property to areas authorized or approved by the GSA Project Team Manager or the CBP Project Manager. Temporary buildings (*e.g.*, storage sheds, shops and offices) and utilities may be erected or installed by Donor only with the approval of the GSA Project Team Manager or the CBP Project Manager and must be built or installed with labor and materials furnished by Donor without expense to the United States. The temporary buildings and utilities will remain the property of Donor and must be removed by Donor at its sole cost and expense upon completion of the work.

Donor must use only established roadways or use temporary roadways constructed by Donor when and as authorized by the GSA Project Team Manager or the CBP Project Manager. Donor must remove any temporary roadways it constructs and restore the property to its condition at the commencement of construction, including resodding and fill, as necessary, and repair or pay for the repair of any damage to curbs, sidewalks, roads, or landscaping that occurs as a result of its activities.

XII. INSPECTION OF CONSTRUCTION

Donor must maintain an adequate inspection system and perform such inspections as will ensure that the work performed under this Agreement conforms to the requirements set forth herein. Donor must maintain complete inspection records and make them available to GSA and CBP upon request.

GSA and CBP reserve the right, but not the obligation, to review, test or inspect the prosecution of Donor's work to verify compliance with the terms of this Agreement. Donor must allow GSA and CBP, and their agents and representatives, access to the construction site and Donor's work for such reviews, provided such access and reviews do not unreasonably interfere with or unreasonably delay the performance of Donor's work. GSA and CBP's inspections and tests are for the sole benefit of the United States and do not relieve Donor of responsibility for providing adequate quality control measures and do not constitute or imply acceptance of any part of the work.

Donor must, without charge to the United States, replace or correct work found by GSA or CBP not to conform to contract requirements. Donor must promptly segregate and remove rejected material from the premises. If Donor does not promptly replace or correct rejected work, the United States

may terminate this Agreement without liability to the United States and seek any other remedies permitted by this Agreement or by law.

XIII. SPECIFICATIONS, PLANS AND DRAWINGS FOR CONSTRUCTION

Donor must keep on the work site a copy of the plans, drawings and specifications and must at all times give GSA and CBP access thereto. Anything mentioned in the specifications and not shown on the plans or drawings, or shown on the plans and drawings and not mentioned in the specifications, must be of like effect as if shown or mentioned in both.

In case of differences between the plans and drawings and the specifications, the specifications will govern. In case of discrepancies in the figures, plans or drawings, or the specifications, the matter must be promptly submitted to GSA and CBP, who will promptly make a determination in writing. Any adjustment by Donor without such a determination will be at its own risk and expense.

If this project requires shop plans and drawings, such as drawings of the mechanical and electrical work, such plans and drawings must be submitted to the GSA Project Team Manager and the CBP Project Manager for approval prior to commencing the work.

XIV. CONTRACT MANAGEMENT AND PERSONNEL

Donor must employ, and require its contractors and subcontractors to employ, qualified personnel to perform the work. The United States reserves the right to exclude, or remove from the site or building, any personnel for reasons of incompetence, carelessness or insubordination, who violate rules and regulations concerning conduct on federal property or whose continued work on the site is otherwise deemed by the United States to be contrary to the public interest. Repeated failure or excessive delay by Donor to provide qualified personnel will be deemed a default under this Agreement and, in such event, GSA and CBP may, in their sole discretion, terminate Donor's right to proceed and seek any other remedies permitted by this Agreement or by law.

XV. CONTRACTORS AND SUBCONTRACTORS

Donor will be responsible for coordinating all activities of contractors, subcontractors and suppliers. This responsibility includes coordination of the following activities: preparation of shop drawings produced by different contractors, subcontractors and suppliers where their work interfaces or may potentially conflict or interfere and the installation of such work; scheduling of work by contractors, subcontractors and suppliers; and use of the project site for staging and logistics.

Donor must verify and confirm, in writing, to the GSA Project Team Manager and the CBP Project Manager that the construction contractor and any of its subcontractors are not identified within the active exclusion records maintained by the United States identifying those parties excluded from receiving federal contracts, certain subcontracts, and certain types of federal financial and non-financial assistance and benefits (the "Exclusion List"). The most current Exclusion List is contained within the System for Award Management ("SAM"), www.sam.gov. No party on the Exclusion List may perform any work related to or in connection with this Agreement and Donor will be in default under this Agreement if any party on the Exclusion List performs such work.

Nothing contained in this Agreement will be construed as creating any contractual relationship between any third party (*e.g.*, contractor, subcontractor or supplier or any of their agents, representatives or employees) and the United States. Donor will be responsible to the United States for acts and omissions of its own employees and those of its contractors, subcontractors, suppliers, and their employees, to the maximum extent permitted by applicable state law and to the extent of available appropriations.

XVI. SECURITY CONSIDERATIONS

Given the security-sensitive nature of land ports of entry, at the discretion of GSA or CBP, each employee, worker and supplier will be subject to a background investigation prior to being authorized to commence work on any aspect of the project.

In addition, the dissemination of any Project Documents related to the donation must be tightly controlled in accordance with HSPD-12, as well as subject to an NDA in the form of Exhibit I, which Donor and all contractors, subcontractors, laborers, and suppliers associated with the project must execute.

All Project Documents are deemed to be Sensitive But Unclassified (“SBU”) or Controlled Unclassified Information (“CUI”), or both (collectively, “Sensitive Information”), and are subject to the provisions of this section. For any person authorized access to Sensitive Information, Donor must ensure that such person receives training concerning the protection and disclosure of Sensitive Information both during and after performance.

Donor and all contractors, subcontractors, laborers, and suppliers associated with the project must incorporate and comply with all applicable changes and updates to security regulations and requirements as promulgated by the U.S. Department of Homeland Security. In addition, Donor must comply with the following additional requirements pertaining to security clearances:

- All personnel performing work under contract on the project site must obtain an Enter on Duty (“EOD”) determination before they will be granted access to the site.
- To obtain an EOD determination, Donor must submit for all such personnel fingerprints on Form SF-87 and a completed Contractor Information Worksheet. Detailed information is available at <http://www.gsa.gov/portal/category/107203>. USAccess Credentialing Centers can be located at <http://www.fedidcard.gov/centerlist.aspx>.
- In addition, all such personnel who will be on-site for six months or longer must apply for and receive clearance in accordance with HSPD-12. See 48 C.F.R. § 552.204-9.

All personnel requiring recurring access to federal property, Sensitive Information or Information Technology Resources (defined below) must have a favorably adjudicated background investigation prior to commencing work under this Agreement, unless this requirement is waived by either GSA or CBP. GSA and CBP may require Donor to prohibit certain individuals from working on the project if GSA or CBP deems their initial or continued employment contrary to the public interest.

In addition, Donor must comply with GSA and CBP personal identity verification procedures that implement HSPD-12, Office of Management and Budget guidance M-05-24 and Federal Information Processing Standards Publication (“FIPS PUB”) Number 201.

Donor must account for all forms of federal identification issued to Donor employees and contractors in connection with performance under this Agreement. Donor must return such identification to the issuing agency at the earliest of any of the following, unless otherwise advised by GSA or CBP:

- When no longer needed for project performance;
- Upon completion of Donor employee’s or contractor’s employment; or
- Upon acceptance of the donation by the United States or termination of the Agreement.

Donor must insert this provision in all contracts when the contractor or subcontractor is required to have access to a federally controlled facility or information system. It is the responsibility of Donor to return such identification to the issuing agency in accordance with the terms set forth above.

Sensitive Information, as used in this Agreement, means any information that, if lost, misused, disclosed, or, without authorization, is accessed or modified, could adversely affect the national or homeland security interest, the conduct of federal programs or the privacy to which individuals are entitled under section 552a of title 5, United States Code, but that has not been specifically authorized under criteria established by an executive order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. In addition to SBU and CUI, this definition also includes the following categories of information:

- Protected Critical Infrastructure Information (“PCII”), as set out in the Critical Infrastructure Information Act of 2002 (title II, subtitle B of the Homeland Security Act, Public Law 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto, 6 C.F.R. part 29, as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his or her designee);
- Sensitive Security Information (“SSI”), as defined in 49 C.F.R. part 1520, as amended, “Policies and Procedures of Safeguarding and Control of SSI,” as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his or her designee);
- Information designated as “For Official Use Only (“FOUO”),” which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person’s privacy or welfare, the conduct of federal programs or other programs or operations essential to the national or homeland security interest; and
- Any information that is designated “sensitive” or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

“Information Technology Resources” include computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.

Donor acknowledges that, as part of its project execution activities, GSA and CBP will need to provide Donor with Sensitive Information. In accordance with section 552.101 of the Texas Government Code, Public Information Act (“PIA”), Donor agrees to maintain the confidentiality of information designated by the United States as Sensitive Information and will sign an NDA to that effect. If Donor receives a request for documents related to this Agreement from a party who is not a signatory to this Agreement, Donor agrees to assert any and all applicable defenses, privileges, exceptions, and exemptions from disclosure under the Texas PIA or any other law and to maintain the confidentiality of the information to the maximum extent permissible under law. Donor will immediately notify GSA and CBP of any such request and will draft a response, in consultation and coordination with GSA and CBP, to submit to the Texas Attorney General within the 10 business days allowed under the Texas PIA.

During project execution, Donor may need to consult with other entities that may be involved with the project. To the extent any of these other entities require access to Sensitive Information, they, too, will be required to execute an NDA.

SAFEGUARDING AND DISSEMINATION OF SENSITIVE INFORMATION

This clause applies to all recipients of Sensitive Information, including offerors, bidders, awardees, Donor, contractors, subcontractors, lessors, suppliers, and manufacturers.

Marking Sensitive Information:

Donor-generated documents that contain Sensitive Information must be reviewed by GSA and CBP to identify any sensitive content before the original or any copies are disseminated to any other entities. If sensitive content is identified, the GSA Project Team Manager or the CBP Project Manager may direct Donor to imprint or affix sensitive document markings to the original documents and all copies before any dissemination.

Authorized Recipients:

Information designated sensitive must be protected with access strictly controlled and limited to those individuals having a legitimate business need to know such information. Those with a need to know may include federal, state and local government entities, and nongovernment entities engaged in the conduct of business on behalf of or with GSA and CBP. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, utilities, and others submitting an offer or bid or performing work under this project. Recipients must have a legitimate business need to know such information. If a contractor or subcontractor is not registered in SAM and has a need to possess Sensitive Information, the contractor or subcontractor must provide Donor its Data Universal Numbering System number or its tax ID number and a copy of its business license. Donor must keep this information related to the contractor or subcontractor for the duration of the contract and subcontract.

Provided they have first executed an NDA, all GSA, CBP and Donor personnel will be provided Sensitive Information when needed for the performance of official federal, state and local government functions, such as for code compliance reviews and for the issuance of building permits or notices to proceed. Public safety entities, such as fire and utility departments, may require access to Sensitive Information on a need to know basis. This clause must not prevent or encumber the dissemination of Sensitive Information to public safety entities.

Dissemination of Sensitive Information:

Electronic transmission of Sensitive Information outside of the GSA or CBP network must use session encryption (or alternatively, file encryption). Encryption must be through an approved National Institute of Standards and Technology (“NIST”) algorithm with a valid certification, such as Advanced Encryption Standard or Triple Data Encryption Standard, in accordance with FIPS PUB Number 140-2, Security Requirements for Cryptographic Modules, and GSA policy.

Non-electronic forms of transmission (including paper documents, among other formats) or through portable electronic data storage devices (including CDs, DVDs and USB drives) sent by mail must use only methods of shipping that provide services for monitoring receipt, such as track and confirm, proof of delivery, signature confirmation, or return receipt. If transmitted in person, Donor must provide Sensitive Information only to authorized recipients with a need to know such information.

Record Keeping:

Donor must maintain a list of all entities to which Sensitive Information is disseminated in accordance with the above paragraphs addressing authorized recipients and dissemination of Sensitive Information. This list must include, at a minimum,; (1) the name of the federal, state or local government entity, utility or firm to which Sensitive Information has been disseminated; (2) the name of the individual at the entity or firm who is responsible for protecting the Sensitive Information, with access strictly controlled and limited to those individuals having a legitimate business need to know such information; (3) contact information for the named individual; and (4) a description of the Sensitive Information provided. Once “as built” drawings are submitted, Donor must collect all lists maintained in accordance with this clause, including those maintained by any contractors, subcontractors or suppliers, and submit them to the GSA Project Team Manager.

Destroying Sensitive Information:

When no longer needed, Sensitive Information must be destroyed so that marked information is rendered unreadable and incapable of being restored, in accordance with guidelines provided for media sanitization within GSA CIO IT Security 06-32, Media Sanitization Guide, and Appendix A of NIST Special Publication 800-88, Guidelines for Media Sanitization. Alternatively, Sensitive Information may be returned to the GSA Project Team Manager.

Notice of Disposal:

Donor must notify the GSA Project Team Manager that all Sensitive Information has been returned or destroyed by Donor and its contractors, subcontractors or suppliers in accordance with the paragraphs above, with the exception of Donor's record copy. This notice must be submitted to the GSA Project Team Manager at the completion of the project. Donor may return the sensitive documents to the GSA Project Team Manager rather than destroying them.

Incidents:

All improper disclosures of Sensitive Information must be immediately reported to the GSA Project Team Manager, and Donor will provide a corrective action plan explaining how Donor will rectify any noncompliance and comply with the provisions of this Agreement in the future.

Contracts and Subcontracts:

Donor and its contractors and subcontractors must insert the substance of this section in all contracts and subcontracts where the contractor or subcontractor may have access to federal facilities, Sensitive Information or Information Technology Resources.

The provisions in this Agreement relating to the NDA and all Sensitive Information, including SBU, CUI or FOUO information, will survive the expiration or earlier termination of this Agreement.

XVII. WARRANTIES

Donor warrants that work performed under this Agreement will conform to the approved Project Documents and will be free of any defect in equipment, material or design furnished, or workmanship performed, by Donor or any contractor, subcontractor or supplier at any tier. In confirmation thereof, Donor agrees to furnish the United States, acting by and through GSA and CBP, at a minimum, a one-year full warranty for the donated property from the date of final acceptance in the form prescribed in FAR subsection 52.246-21, Warranty of Construction. Donor must remedy, without any cost or expense to the United States, any failure to conform to the approved Project Documents or any defect within a reasonable time, and must remedy, without any cost or expense to the United States, any damage to federally owned or controlled real or personal property, when that damage results from Donor's or Donor's contractor's, subcontractor's or supplier's failure to conform to the approved Project Documents, contract requirements or any defect of equipment, material, workmanship, or design furnished. Donor's warranty with respect to work repaired or replaced will run for a minimum of one-year from the date of repair or replacement.

If Donor fails to remedy any failure, defect or damage within a reasonable time after receipt of notice, GSA and CBP will have the right to replace, repair or otherwise remedy the failure, defect or damage caused at Donor's expense and obtain reimbursement from Donor for the costs of such replacement, repair or remedy.

Donor must obtain all warranties from contractors, subcontractors, manufacturers, and suppliers that would be given in normal commercial practice and enforce all warranties for the benefit of the United States if directed by either GSA or CBP.

XVIII. INSURANCE

The United States acknowledges that Donor, being a city in Hidalgo County in the State of Texas, is self-insured. Prior to commencing any activities under this Agreement, Donor must deliver to GSA and CBP evidence that Donor's contractors and subcontractors each have at least \$1,000,000 comprehensive general public liability and property damage insurance policies to cover claims arising from the contractors' and subcontractors' operations that cause damage to persons or property of third persons; such insurance must name the United States, acting by and through the Administrator of General Services and the Secretary of Homeland Security, as an additional insured. Each contractor and subcontractor also must obtain and maintain workers' compensation insurance in the amounts required by applicable laws. If Donor's contractors and subcontractors fail to comply with the terms and conditions of this section, at the option of GSA or CBP, Donor's activities must immediately cease and desist until such time as there is compliance. The insurance carrier must waive all subrogation rights against any of the named insured.

Donor must promptly provide to the GSA Project Team Manager and the CBP Project Manager proof that its contractors and subcontractors have obtained the insurance required by this Agreement in the form of certificates of insurance that show the policy coverage amount(s) and the endorsement page that documents and confirms that the United States has been added as an additional insured on the policies with respect to operations performed under this Agreement. Donor must submit to the GSA Project Team Manager and the CBP Project Manager all renewal certificates issued during the life of the project immediately upon issuance. Donor's contractors and subcontractors must maintain the required insurance at all times during the term of the Agreement. All required policies of insurance must be in companies of generally recognized responsibility. All policies of insurance must provide that they may not be canceled without at least 30 calendar days' prior written notice to GSA and CBP.

XIX. BONDING

Donor must require its contractors to post payment and performance bonds substantially in the form of Standard Form 25 to secure payment for persons supplying labor or materials and completion of the work to be performed under this Agreement. The bonds must name the United States, acting by and through the Administrator of General Services and the Secretary of Homeland Security, as an additional named beneficiary. The performance bond or bonds must be in a cumulative amount no less than the estimated value of the donation.

Donor must furnish all executed bonds, including any necessary reinsurance agreements, to GSA and CBP prior to commencement of construction. The bonds must be in the form of a firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties or by other acceptable security, such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury

Department regulations, certain bonds or notes of the United States. Treasury Department Circular 570 is published in the Federal Register or may be obtained from the:

U.S. Department of the Treasury
Financial Management Service
Surety Bond Branch
3700 East West Highway, Room 6F01
Hyattsville, MD 20782,

or on the Internet at <http://www.fms.treas.gov/c570/>.

Donor must promptly furnish additional security required to protect the United States and persons supplying labor or materials under this Agreement if any surety upon any bond or issuing financial institution for other security furnished under this Agreement becomes unacceptable to the United States.

XX. ENVIRONMENTAL REPRESENTATIONS

Donor will represent and warrant to the United States as of the date the donated property is accepted by the United States that, to the best of Donor's knowledge, information and belief:

- Donor has no liability under, has never violated and is presently in compliance with all environmental laws, rules, regulations, and ordinances applicable to the property and any construction activities thereon, and there exist no adverse environmental conditions with respect to the property or any construction activities thereon.
- Donor has neither disposed of solid waste at the property, nor generated, manufactured, refined, transported, stored, handled, disposed, transferred, produced, or processed any hazardous substance, pollutant or contaminant, including hazardous wastes or hazardous constituents, petroleum or petroleum derivatives (as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and the Resource Conservation and Recovery Act), disposed of, released or existing in environmental media, such as soil, subsurface soil, air, groundwater, surface water, or subsurface geological formations at levels above background from or on the property (other than ordinary small quantities of household or office cleaning supplies and office supplies, such as photocopy supplies for office use), and Donor has no knowledge of the release or threat of release of any of these at or in the vicinity of the property.
- No lien has been imposed on the property by any governmental entity in connection with an unsatisfactory environmental condition located on or off the property.
- The donated property contains no asbestos-containing materials. Asbestos-containing materials are defined as any materials with a concentration of 1% or greater by dry weight of asbestos fibers.

Donor further agrees that it will take all response actions necessary to protect human health and the environment that have not been taken as of the date the property is donated to the United States, but are discovered to be required after the date of the donation and are attributable to Donor or its contractors' or agents' actions. In particular, Donor provides assurances that, in accordance with and to the extent required at the location of the property by applicable federal, state and local laws,

Donor will timely assess, inspect, investigate, study, and remove or remediate, as appropriate, the release or threatened release of a hazardous substance, pollutant or contaminant, including hazardous wastes or hazardous constituents, petroleum or petroleum derivatives (as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and the Resource Conservation and Recovery Act), disposed of, released or existing in environmental media, such as soil, subsurface soil, air, groundwater, surface water, or subsurface geological formations at levels above background from or on the property.

Donor further agrees that: To the maximum extent permitted by applicable state law, Donor will settle or defend and pay any claim, demand or order, including costs, fees and penalties, made by federal, state or local regulators or third parties in connection with any release or threatened release of a hazardous substance, pollutant or contaminant, hazardous waste or hazardous constituent, or petroleum or petroleum derivative from or on the property, arising out of or relating to the performance of Donor's or Donor's contractors and subcontractors' work or activities under this Agreement.

XXI. LIMITATIONS

Nothing in this Agreement is intended to conflict with current law, regulation, directive, or policy of any Party. If any provision of this Agreement is inconsistent with any such authority, then that provision is deemed to be invalid and subject to modification upon concurrence of the Parties and the remaining terms and conditions of this Agreement will continue in full force and effect. This Agreement is not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity, by Donor or any third-party against the United States or any of its employees.

The Parties acknowledge that this Agreement is not a commitment by the Federal Government to future funding, staffing or other resources. Nothing in this Agreement may be construed or interpreted to obligate the Federal Government to any current or future expenditure of funds in advance of, or in excess of, the availability of appropriations, nor does this Agreement obligate the Federal Government to spend funds for any particular purpose, even if funds are available, except to the extent necessary to complete the contemplated donation.

Nothing in this Agreement constitutes or can be construed as a waiver of the sovereign immunity of the United States.

In accepting this donation, Donor acknowledges that CBP and GSA cannot and will not provide any preferential treatment to Donor in the performance of its duties, and that Donor does not expect nor has Donor requested any such preferential treatment or endorsement in exchange for the donation. Donor does not expect nor has Donor requested any other conditions or benefits in exchange for the donation other than what is expressly stated herein.

XXII. LIABILITY AND INDEMNIFICATION

Donor must not destroy, displace or damage any United States property, except as expressly permitted by this Agreement or the written consent of the GSA Project Team Manager and the CBP

Project Manager. Donor, to the maximum extent permitted by applicable state law, is responsible for all damages to persons or property that occur as a result of its activities or the activities of its employees, agents, representatives, contractors, subcontractors, or suppliers arising in any way under this Agreement, whether caused by intentional conduct, recklessness, fault, negligence, or otherwise. In confirmation thereof, Donor, to the extent permitted by applicable state law and to the extent of available appropriations, hereby agrees to indemnify and hold the United States, acting by and through CBP and GSA, and its employees, officers, representatives, and agents, in both their individual and official capacities, harmless from and against all loss, damage, claim, or liability, including judgments, expenses, costs, charges, liens, fines, penalties, and fees, whatsoever, due to personal injury or death, or damage to property of others, directly or indirectly, arising out of or relating to the exercise by Donor of the privileges granted under this Agreement and the Project Documents or any other act or omission of Donor relating to the project and performance of work, including failure to comply with the obligations of this Agreement and the Project Documents. Donor is responsible for all materials delivered and work performed until completion and acceptance of the project.

In addition, Donor agrees to require in its contracts for any portion of any work performed under this Agreement that the contractors will indemnify and hold the United States, acting by and through CBP and GSA, and its employees, officers, representatives, and agents, in both their individual and official capacities, harmless from and against all liabilities, suits, obligations, fines, damages, penalties, claims, judgments, liens, costs, charges, and expenses, including reasonable attorneys' fees and disbursements, that may be imposed upon or incurred by or asserted against the United States by reason of any acts of any of Donor's contractors or any person or entity claiming by or through Donor's contractors.

XXIII. NOTICES

All notices and other communications arising under this Agreement must be in writing and must be furnished by (i) hand delivery; (ii) United States certified mail, postage prepaid, return receipt requested; or (iii) nationally available overnight next business day courier, charges prepaid, signature of recipient required, in each instance, if to GSA to the GSA Project Team Manager, if to CBP to the CBP Project Manager, and, if to Donor to the Donor Project Manager, at the addresses set forth immediately below. Any Party may change the notice address set forth below by serving five days' prior written notice upon the other Parties. Any such notice will be duly given upon the date it is delivered to the address (or, if delivery is refused, the date when delivery was first attempted) shown below.

CBP:

U.S. Customs and Border Protection
24000 Avila Road
Suite 5020
Laguna Niguel, CA 92677
Attn: Michael Acosta

with a copy to:

U.S. Customs and Border Protection
Donations Acceptance Program
1300 Pennsylvania Ave, NW
3.4D-24
Washington, DC 20229
Attn: Jorge A. Salazar

GSA:

U.S. General Services Administration
Public Buildings Service (7P1)
1101 E. Hackberry Ave,
Suite 200
McAllen, TX 78501
Attn: Christopher Anzaldua

with a copy to:

U.S. General Services Administration
Office of Regional Counsel (7L)
819 Taylor Street
Room 11A31
Attn: Regional Counsel

Donor:

Government of the City of Pharr, Texas
118 South Cage Blvd
P.O. Box 1729
Pharr, TX 78577
Attn: Edward Wylie, Interim City Manager

with a copy to:

Government of the City of Pharr, Texas
118 South Cage Blvd
P.O. Box 1729
Pharr, TX 78577
Attn: Dr. Ambrosio Hernandez, Mayor

XXIV. EXAMINATION OF RECORDS

Donor agrees that GSA, CBP and any of their duly authorized representatives will, until the expiration of three years after the date of acceptance of the donation by the United States, have access to and the right to examine any books, documents, papers, and records of Donor involving transactions related to this Agreement or compliance with any clauses thereunder. Donor further agrees to include in all its contracts and subcontracts hereunder a provision to the effect that each contractor and subcontractor agrees that GSA, CBP and any of their authorized representatives will, until the expiration of three years after the date of acceptance of the donation by the United States, have access to and the right to examine any books, documents, papers, and records of such contractor or subcontractor involving transactions related to the contract or subcontract or compliance with any clauses thereunder.

XXV. UNITED STATES RIGHTS TO DATA AND INDEMNIFICATION

The United States will have unlimited rights in all plans, drawings and specifications, including the right to use same on any other United States design or construction project. Donor, for a period of three years after the date the United States accepts the donation, agrees to furnish the original or copies of all such plans, drawings and specifications on the request of either GSA or CBP.

Donor, to the maximum extent permitted by applicable state law, agrees to indemnify the United States and its officers, agents, representatives, and employees, in both their individual and official capacities, against liability, including fees and costs, for any claim of infringement of any patent, violation of trade secrets, copyrights, or right of privacy or publicity, or any claim or dispute arising out of the use of the plans, drawings or specifications, or any other documents or information provided by Donor, or any combination of the foregoing, or acceptance or use of the donation.

XXVI. MODIFICATION

This Agreement may be modified or amended only by written, mutual agreement of the Parties. Any Party can initiate the amendment process by providing written notice describing the proposed amendment to the other Parties. During the ensuing 30-day period, the Parties will actively coordinate to try to reach a consensus on the proposed amendment.

XXVII. CHANGES

Once the Project Documents have been approved by all Parties, any modification to the project scope of work, including changes to the plans, specifications, drawings, design, or method or manner of performance of work and associated costs, must be reviewed and approved by the Parties before taking effect. The United States will not be responsible for any costs or expenses associated with any scope modification initiated by Donor or costs or expenses associated with unknown or unforeseen site conditions encountered on the property.

XXVIII. DISPUTE RESOLUTION

All disputes arising under or relating to this Agreement will be resolved following the procedures set forth in this section and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Parties agree

to make good faith efforts to resolve informally disputes that may arise out of or relate to this Agreement, or the breach thereof, that affect the Parties' obligations and responsibilities under this Agreement. In the event that such a dispute arises between Donor and the United States, Donor may file a claim (a "Donor Claim") with GSA or CBP or the United States may file a claim (a "United States Claim") against Donor. A "Claim" is a United States Claim or a Donor Claim. If the dispute cannot be settled through negotiation, the Parties will first try in good faith to settle the dispute by mediation, before resorting to litigation. The United States agrees that GSA and CBP will not issue any final determination regarding any Claim by either Party until and unless such mediation has been concluded or either Party advises the other that a resolution of the dispute by mediation does not appear likely within a reasonable time. All claims will be resolved in accordance with Federal law.

XXIX. NONCOMPLIANCE AND DEFAULT

In the event Donor, after receiving written notice from the GSA Project Team Manager or the CBP Project Manager of non-compliance with any requirement of this Agreement, fails to initiate promptly such action as may be appropriate to comply with the specified requirement within a reasonable period of time, GSA and CBP will have the right to order Donor to stop any or all work or to not accept the donation until Donor has complied or has initiated such action as may be appropriate to comply within a reasonable period of time.

If Donor refuses or fails to prosecute the work or any severable part with the diligence that will ensure its completion within the time specified in this Agreement including any extension, fails to complete the work within this time, fails to complete the work in the manner or to the specifications required by this Agreement, or fails to make required payment to contractors and subcontractors (which includes laborers and suppliers), GSA and CBP will, by written notice, provide Donor a reasonable time to cure performance, which will not be less than 30 days. If Donor does not cure within the reasonable time, Donor will be in default under this Agreement.

In the event of a default by Donor, the United States may pursue any available remedy, including one or a combination of the following: not accepting the donation; seeking reimbursement for costs and expenses the United States incurs as a result of the default, including for completing the work; or requiring Donor to restore any altered federal property to its pre-construction condition. In addition, the United States may make a claim under Donor's or Donor's contractor's payment or performance bonds. Upon default, the United States may take possession of and use any tools, materials, equipment, or appliances on the work site necessary for completing the work. Donor and its sureties will be liable for any damage sustained by the United States resulting from Donor's default under this Agreement, whether or not Donor's right to proceed with the work is terminated.

Donor's right to proceed will not be terminated nor will Donor be charged with damages under this section if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of Donor and Donor notifies the GSA Project Team Manager or the CBP Project Manager within 10 days from the beginning of any such delay and the cause for the delay, provided that once able, the Donor promptly continues performance under the terms of this Agreement

XXX. TERMINATION

Any Party may terminate its participation in this Agreement by providing written notice to the other Parties at least 30 days prior to commencement of construction activities, in which case the United States will be under no obligation to accept the donation, all work on the project will cease and none of the Parties will thereafter have any further rights, obligations or liabilities under this Agreement other than those that expressly survive termination or expiration of this Agreement. In the event Donor has altered United States property prior to termination of the Agreement, Donor agrees, subject to the discretion of the United States, to restore the property to its prior condition or, if more economically feasible, complete the project. In the event Donor has received any Sensitive Information from GSA or CBP pertaining to the proposed donation and the donation is not consummated for any reason, Donor must promptly return all such materials as described in greater detail in section 16, above. This provision survives the expiration or earlier termination of the Agreement.

XXXI. SIGNATORIES

The CBP Commissioner and the GSA Commissioner of Public Buildings, or another agency official with the appropriate delegated authority, must execute this Agreement to be effective. Donor's signatory to this Agreement must have full authority to bind Donor with regard to all matters relating to this Agreement.

XXXII. COUNTERPARTS

This Agreement may be executed in counterparts, each of which will be deemed to be a duplicate original, and which together will constitute one and the same instrument.

XXXIII. INTEGRATION AND MERGER

This Agreement sets out all the terms, conditions and agreements of the Parties and supersedes any previous understandings or agreements regarding the donation, whether oral or written. No modification or amendment of this Agreement will be effective unless in writing and signed by all Parties.

XXXIV. VALIDITY OF PARTS

If any provision of this Agreement is declared to be invalid by a court of competent jurisdiction, the remaining provisions will continue in full force.

XXXV. NO PUBLIC OFFICIALS TO PARTICIPATE OR BENEFIT

No member or delegate to the United States Congress, or officers or employees of the United States or the Government of the State of Texas or any municipality thereof, may be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; provided, however, that this provision will not be construed as extending to any person who may be a shareholder or other beneficial owner of any publicly held corporation or other entity, if this Agreement is for the general benefit of such corporation or other entity.

XXXVI. EFFECTIVE DATE

This Agreement will become effective when all the Parties have signed it. The date this Agreement is signed by the last Party to sign it (as indicated by the date stated opposite that Party's signature) will be deemed to be the effective date of this Agreement. This Agreement will remain in effect until it is terminated as provided in sections 29 (Noncompliance and Default) and 30 (Termination), above, or the property is accepted by the United States.

*[Remainder of page intentionally left blank.
Signature page to follow.]*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates noted below.

FOR THE U.S. CUSTOMS AND BORDER PROTECTION

Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection
U.S. Department of Homeland Security

Date: _____

FOR THE U.S. GENERAL SERVICES ADMINISTRATION

Daniel W. Mathews
Commissioner
Public Buildings Service
U.S. General Services Administration

Date: _____

FOR THE CITY OF PHARR

Edward Wylie
Interim City Manager
City of Pharr

Date: _____

FY16 Pharr, TX LPOE Donations Acceptance Program (DAP) OIT Costing

Background:

Below are the OIT ROM estimates for the FY16 DAP Project at the PHARR, TX LPOE. These estimated costs include the voice, data, circuits, and Border Security Deployment Program (BSDP) security camera systems. These estimates were based on the requirements received for the FY16 Pharr, TX LPOE DAP Project. OIT included assumptions based on the project requirements and items that would need to be in place prior to implementation.

OIT reserves the right to revise these estimates based on additional information received and refined requirements.

The listing here are costs that the City of Pharr would make a cash donation for CBP to purchase the necessary technology to support the new facilities.

Assumptions:

The following assumptions associated with the OIT costing of the project:

1. This estimate does not include any cabling or conduit costs to support the OIT programs. OIT did not estimate the costs of the cabling for this project. The infrastructure and cabling is the sole responsibility of the contractor. OIT will provide a separate cabling Statement of Work (SOW) during the design phase of the project. This will include all cabling requirements associated with the Voice, Data, BSDP, and Local Area Network (LAN) infrastructure, distribution and conduits.
2. Voice system cost associated with providing and expanding the current Pharr, TX LPOE voice system.
3. CBP BSDP will procure the cameras with the cash donation. The contractor will provide installation of the cameras provided to them by the Government. Once the cameras are installed, CBP will integrate the camera's into the sites NVR/DVR systems.
4. CBP accepts a cash donation for the procurement of the IT equipment and Services.

The costing provided below consists of all Voice, Data, and CAVSS cameras and integration. This is Rough Order of Magnitude (ROM) cost estimate based on previous CBP installations and experiences. CBP will provide updated pricing when project enters the execution and design project phases.

1. Voice Systems:

The voice pricing includes the expansion of the current system to accommodate 70 Voice over Internet Protocol (VoIP) phones to support the CBP mission in the new facility.

Estimated Voice Equipment Costs: \$60,500

2. Data and Infrastructure Equipment:

- LAN Room infrastructure equipment
 - o LAN Switches
 - o UPS's
 - o Riverbed
 - o Rack Enclosures
 - o Wireless Access Points and Controllers
 - o Copper and Fiber Patch Cables
 - o Miscellaneous LAN parts
- Personal Property Equipment including:
 - o Workstations (including, mice, keyboards, and monitors)
 - o Network and Local, Black and white and color printers
 - o Scanners

Estimated Data Equipment Costs: \$568,251

3. Data Circuits (First Year):

With the expansion of the network to support the additional facilities and mission requirements. OIT is determining if the facility requires upgrading the circuits. This estimate includes the first year costs for upgrading the current AT&T and Verizon DS-3's to Smartcom and Spectrum 100M ICP circuits. The estimate includes the installation, Local Exchange Carrier (LEC) special installation construction and the first year.

Estimated Data Circuit Costs: \$49,450

4. Border Security Deployment Program (BSDP):

This is for the additional security cameras, materials and support services. This does not include the installation of the cameras, cabling, and conduit required for the installation. The contractor shall provide all the necessary labor and materials that is required for the CAVSS system. This includes the following assumptions:

- CBP to purchase 74 cameras and provide to City of Pharr Construction Company.
- All power, cabling, and conduit will be provided by contractors
- This will be an IP based camera system and all cameras will be installed within 330' of a CBP Network switch
- CBP OIT will furnish and install all switches associated with the cameras. The price for the switches are included within the Data Equipment estimate.
- Site has adequate bandwidth to accommodate 74 IP cameras
- 2 additional CCTV monitoring workstations are included

- A lift will be required and is included in the price
- A rack to install the NVR in will be provided by Contractor
- The contractor will test all cameras external from the CBP network prior to turning the installed cameras over for integration into the CBP network.
- No training required

Estimated BSDP Costs: \$142,620

5. Government Travel:

This is the estimated Government travel costs for the Project manager for Voice. This could include multiple trips by Voice for their installation: CBP will support the data installation portion of the project locally.

Estimated Travel Costs: \$6,000

Total one-time costs for the FY16 Pharr, TX LPOE DAP Project:

Estimated Total One-Time Costs: \$826,821



AGENDA MEMORANDUM



BOARD: City Commission

AGENDA ITEM #: 9.E.

DATE SUBMITTED: May 29, 2020

MEETING DATE: June 1, 2020

FROM: Edward Wylie, Assistant City Manager

DEPARTMENT: Administration

DIRECTOR:

Agenda Item: Consideration and action, if any, authorizing City Manager to enter into and negotiate an Interlocal Agreement with Hidalgo County for exclusive and sole authority to regulate subdivision plats and related permits within the City of Pharr's Extra-territorial Jurisdiction, pursuant to Subchapter A of Chapter 212 of the Texas Local Government Code.

Classification: Regular

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

Exclude Material from Public Packet? No

Reason:

Issue: IN order to promote orderly growth within the City's ETj, staff is recommending that the City of Pharr enter into an interlocal agreement with Hidalgo County for sole and exclusive jurisdiction in the regulation of subdiviion plat within the City of Pharr's ETJ

Financial Consideration:

Staff Recommendation:

Alternatives:

ROUTING:

Edward Wylie
Patricia Rigney
Melanie Cano
Edward Wylie

Created/Initiated - 5/29/2020
Approved - 5/29/2020
Approved - 5/29/2020
Final Approval - 5/29/2020

INTERLOCAL COOPERATION **AGREEMENT**

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") is entered into and in accordance with the provisions of the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and Texas Local Government Code §242.001, as amended by House Bill 1445 ("H.B. 1445"), enacted by the Texas Legislature during its 77th Legislative Session, by and between the City of Pharr, Texas ("City"), a political subdivision of the State of Texas, and Hidalgo County, Texas ("County"), also a political subdivision of the State of Texas.

Recitals

WHEREAS, prior to the enactment of H.B. 1445, Texas Local Government Code §242.001 and §242.003 authorized City and County to exercise concurrent jurisdiction over the platting process required upon the subdivision of land within City's extraterritorial jurisdiction located within the County ("City of Pharr ETJ"); and

WHEREAS, H.B. 1445 amends Texas Local Government Code §242.001 to require that City and County agree to a procedure whereby only one governmental agency will have jurisdiction to oversee and regulate the platting process within the City of Pharr's ETJ (Exhibit A); and

WHEREAS, the Interlocal Cooperation Act allows local governments to contract with one another to perform governmental functions such as platting; and

WHEREAS, City and County mutually desire to be subject to the provisions of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act, specifically § 791.011 regarding contracts to perform governmental functions and services; and

WHEREAS, H.B. 1445 requires City and County to enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in City of Pharr's ETJ; and

WHEREAS, City and County desire that City be granted such exclusive jurisdiction to regulate subdivision plats and approve related permits in City of Pharr's ETJ under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, all of which is provided for in the Interlocal Cooperation Act and H.B. 1445.

NOW, THEREFORE, City and County, for the mutual consideration

stated herein, agree and understand as follows:

Agreements

SECTION 1: *City Is Granted Exclusive Jurisdiction.* City of Pharr shall be granted exclusive jurisdiction to regulate all subdivision plats and approve all related permits in City of Pharr's ETJ and may regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, and County shall no longer exercise any of these functions in the City of Pharr's ETJ. Execution of this Agreement does not affect County's authority to issue permits for on-site sewage facilities, including the authority to enforce lot size requirements, and to approve culvert and floodplain development permits pursuant to federal law.

SECTION 2: *ETJ Defined.* For the purposes of this agreement, City of Pharr's ETJ is described by the area indicated on Exhibit A, attached hereto and made part hereof by this reference. The recognition of the ETJ shall not be deemed an admission by City or County in any dispute with any other person or municipality regarding the boundaries of City's ETJ.

SECTION 3: *ETJ Expansion or Reduction.* In the event City's ETJ expands, City and County agree that City shall continue to be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in its ETJ, and to regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, until Exhibit A to this Agreement is amended to take into account such ETJ expansion. City and County agree that in the event City's ETJ is reduced, County shall have exclusive jurisdiction to regulate subdivision plats and approve related permits in areas in the County that are no longer in City's ETJ until Exhibit A is amended to take into account such ETJ reduction. Should City expand or reduce its ETJ, City shall notify County of such expansion or reduction within 30 days by sending to County a copy of the applicable ordinance and an amended Exhibit A. County shall have 15 days from receipt of the amended Exhibit A to review the exhibit and to present any objections to the accuracy of the exhibit to City. The "Date of Amendment" of Exhibit A shall be: (1) the 15th day after County receives the amended exhibit if County does not object to the accuracy of the exhibit; or (2) if County objects to the accuracy of the amended exhibit, upon resolution by the parties of such objection. Amendment of Exhibit A shall be deemed an amendment to this Agreement by the parties pursuant to Texas Local Government Code §242.001(c).

SECTION 4: *Notice of Plat Submittals and Approvals.*

(a) City shall notify County of all subdivision plat applications for property

located in City's ETJ within the County within (10) ten days after receipt of a completed application. City shall use its best efforts to comply with this paragraph; however, failure to comply shall not affect the validity of any subdivision plat.

(b) City shall notify County of the approval of plats for property located in City's ETJ within the County. A copy of the approved plat and any engineering plans shall be sent to County within 30 days of City's final plat approval.

SECTION 5: *Plats Affected.* The plats that will be subject to this Agreement are those that are filed after the Effective Date, as defined herein. If the ETJ is expanded or reduced, plats must be filed with the party who will have jurisdiction after the Date of Amendment. The party receiving an application for a plat approval for which the party has no jurisdiction may either direct the developer to the appropriate office or forward the application. Any rights accruing to a person under Texas Local Government Code Chapter 245 shall not be affected.

SECTION 5: *Collection of Fees and Costs.* All costs involved with the approval of subdivision plats under this Agreement, including but not limited to engineering reviews and inspections of public improvements, shall be borne by City and payable out of current revenues available to City. All fees relating to subdivision plat approval shall be collected by City and retained by City.

SECTION 6: *Effective Date.* The Effective Date shall be the date upon which both parties have approved and fully executed this Agreement.

SECTION 7: *Applicable Regulations.* The subdivision rules and regulations currently enacted by City and extended to the ETJ are hereby established as the set of regulations to be enforced by City in the ETJ. City will provide County with copies of all amendments to City's subdivision rules and regulations proposed after the Effective Date and will notify County of all public hearings on such proposed amendments.

SECTION 8: *Miscellaneous Provisions.*

(c) This Agreement expresses the entire agreement between the parties hereto regarding the subject matter contained herein and may not be modified or amended except by written agreement duly executed by both parties.

(d) This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.

(e) This Agreement shall be construed in accordance with the laws of the State of Texas and venue for all purposes hereunder shall be in Hidalgo County, Texas.

(f) If any provision hereof is determined by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be fully severable here from and this Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision never comprised a part hereof; and the remaining provisions shall continue in full force and effect.

(g) All notices required to be given by virtue of this Agreement shall be addressed as follows and delivered by certified mail, postage prepaid or by hand delivery:

City: Mayor
City of Pharr
118 S. Cage
Blvd
Pharr, Texas 78577

County : Hidalgo County Judge
100 E Cano St 2nd
Edinburg, TX
78539

(h) This Agreement is not intended to extend the liability of the parties beyond that provided by law. Neither City nor County waives any immunity or defense that would otherwise be available to it against claims by third parties.

SECTION 9: Publication; Effective Date.

The importance of the subject matter of this Ordinance creates an emergency and an imperative public necessity requiring the suspension of the provision of the City Charter of the City of Pharr, Texas, that no Ordinance shall be Passed until it has been read on three (3) separate days and such provision of the City Charter is hereby suspended and said requirement dispensed with a majority of all members of the City Commission.

PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the ____ day of June, 2020, A. D.

CITY OF PHARR

AMBROSIO HERNANDEZ, MAYOR

ATTEST:

HILDA PEDRAZA, CITY CLERK

