

Tino Villarreal, Commissioner At-large "A"
Bryan L. Martinez, Commissioner District 1
Roy De los Santos, Commissioner District 3



Rose M.Z. Gowen, M.D., Commissioner At-large "B"
Linda C. Macias, Commissioner District 2
Pedro Cardenas, Commissioner District 4

John Cowen, Jr, Mayor

NOTICE OF A PUBLIC MEETING OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE

Pursuant to Chapter 551, Title 5 of the Texas Government Code, the Texas Open Meetings Act, notice is hereby given that the City Commission of the City of Brownsville, Texas, in accordance with Article V, Section 12, of the Charter of said City, will convene a **Regular Meeting** on **November 7, 2023, at 5:00 p.m.**, in the City Commission Chambers, located on the Second Floor of the Brownsville City Hall - Old Federal Building, located at 1001 East Elizabeth Street, Brownsville, Cameron County, Texas, 78520.

Pursuant to Section 551.127, Texas Government Code, one or more Commissioners or employees may attend this meeting remotely using videoconferencing technology. The video and audio feed of the videoconferencing equipment can be viewed and heard by the public at the address posted above as the location of the meeting.

Members of the public, employees, and the City Commission may join via the Webex Teleconference Meeting by logging on at:

<https://brownsvilletx.webex.com/brownsvilletx/j.php?MTID=mc77409b40129c227b132aac8fb6c5533>

Password: commission (26664774 from video systems)

Join by video system

Dial [25375988678@brownsvilletx.webex.com](tel:25375988678)

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

1-844-621-3956 United States Toll Free

+1-650-479-3208 United States Toll

Access code: 253 759 88678

This Notice and Meeting Agenda are posted online at: <https://brownsvilletx.gov/129/Agendas-Minutes>

Members of the public who submitted a "Public Comment Form" will be permitted to offer public comments as provided by the agenda and as permitted by the presiding officer during the meeting. A recording of the meeting will be made and will be available to the public in accordance with the Open Meetings Act.

At any time during the course of the posted meeting, the Brownsville City Commission may retire into Executive Session under Texas Government Code 551.071 to confer with legal counsel on any subject matter on this agenda in which the duty of the attorney to the City Commission under Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during this meeting, the City Commission may retire to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more exceptions to the Texas Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.

CALL TO ORDER

- a) ROLL CALL
- b) INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAGS OF THE UNITED STATES OF AMERICA AND STATE OF TEXAS

PROCLAMATION(S)

The International/Southmost Choice Neighborhood Ambassadors (Commissioner B. L. Martinez / Commissioner R. Gowen)

Housing Authority of the City of Brownsville-85th Anniversary (Commissioner B. L. Martinez / Mayor J. Cowen, Jr.)

PUBLIC COMMENT PERIOD

- **Non-Agenda Items:** Kindly submit a “Public Comment Form” stating the City business or City policy you wish to speak to an hour before the start of the scheduled meeting time with the City Secretary. Forms are not reserved for anyone nor may time be deferred to anyone. PowerPoint presentations may not be accommodated. This period is limited to five (5) speakers with a time limit of three (3) minutes per speaker.
- **Agenda Items:** Kindly submit a “Public Comment Form” stating which item(s) on the agenda you wish to speak to an hour before the start of the scheduled meeting time with the City Secretary. Speakers will be allowed to address the Commission on the agenda item before it is to be considered. The speaker is limited to three (3) minutes.
- **Time Limits:** The City Commission shall have the discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit may be shortened to accommodate a lengthy agenda or it could be lengthened to allow additional time for discussion on a complicated matter or if there is a need for an interpreter.

PRESENTATION(S)

Citywide Grant Updates (Grants & Community Development Department)

Brownsville Animal Regulation and Care Center (BARCC) Annual Update (Public Health Department)

City Manager Update, Mayor John Cowen, Jr., appointed Vice-Chair to the Rio Grande Valley Metropolitan Planning Organization (RGVMPO)

CONSENT AGENDA ITEM(S)

The following are considered to be routine by the City Commission and will be approved by one motion. There will be no separate discussion of these items unless a City Commissioner so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- 1) Approval of the Minutes:
 - a) Minutes of October 17, 2023, Regular City Commission Meeting
- 2) **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-027**, to rezone from Commercial Corridor (CC) to Regional Center (RC) to allow a plasma center for Lot 3, Block 1, Re-plat of Lots 1, 3 and 5, Strawberry Square Subdivision, Cameron County, Texas, located at 2921 Boca Chica Boulevard, Brownsville, Texas 78521, as shown in Exhibit "A". (District 2) (Planning & Redevelopment Department)
- 3) **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-028**, to rezone from Residential Transition (R-3) to Commercial Corridor (CC) to allow a commercial plaza for 2.01 acres out of Lot 32, containing 18.34 acres, more or less, of the El Jardin Subdivision of the Brownell Tract Subdivision, Share 28, Espiritu Santo Grant, Cameron County, Texas, located on North Minnesota Avenue, Brownsville, Texas 78521, as shown in Exhibit "A". (District 2) (Planning & Redevelopment Department)
- 4) **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-029**, to rezone from Residential Estate (RE) to Residential Transition (R-3) to allow a multi-family development for a 2.389-acre tract out of Lots 122, 121, and part of Boulevard Lot 120, a portion of abandoned Guerra Boulevard, and a portion of the Resaca de la Guerra, Brownsville Land and Improvement Company Subdivision, Cameron County, Texas, located at 221 Wild Rose Lane,

Brownsville, Texas 78520, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)

- 5) **APPROVAL** on **SECOND** and **FINAL READING** on **Ordinance Number 235-2023-030**, to rezone Residential Estate (RE) to Commercial Corridor (CC) to allow an administrative office for an electric business, Lot 10, Jose Almaraz Subdivision, Cameron County, Texas, located at 1420 West Alton Gloor Boulevard, Brownsville, Texas 78520, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)
- 6) **APPROVAL** on **SECOND** and **FINAL READING** on **Ordinance Number 235-2023-031**, to rezone from Agriculture (AG) to Residential Single-Family (R-1) to allow a Single-Family Development for a 21.64-acre tract, more or less, out of a 568.83-acre tract, Espiritu Santo Grant, Share 14, Cameron County, Texas, located at Summerhill Boulevard, Olmito, Texas 78575, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)
- 7) **APPROVAL** on **SECOND** and **FINAL READING** on **Ordinance Number 2023-1724** adopting City Board Policies. (Office of the City Attorney)
- 8) Consideration and **ACTION** to approve an Interlocal Agreement with the City of Harlingen for Fire Inspection Services. (City Manager's Office)
- 9) Consideration and **ACTION** to adopt **Resolution Number 2023-117**, reviewing, amending and readopting all of the provisions listed in the documents titled, "City of Brownsville, Texas Amended Investment Policy" and "City of Brownsville, Texas, Amended Investment Strategy Statement". (Financial Services)
- 10) Consideration and **ACTION** to approve the proposal from SCS Engineers to assist in the preparation of a Request for Proposal (RFP) in implementing a landfill gas-to-energy (LFGE) project using gas produced by the City of Brownsville Landfill in the amount of \$62,500. #LES-63-0703 (Engineering and Public Works Department)
- 11) Consideration and **ACTION** to authorize the United States Department of the Interior U.S. Geological Survey Amendment of Joint Funding Agreement for Water Sources Investigation. The purpose of this amendment is to extend the period of performance. (Engineering and Public Works Department)
- 12) Consideration and **ACTION** to approve **Resolution Number 2023-125** for the agreement between the Texas Department of Transportation (TxDOT) and the City of Brownsville to authorize the street closure(s) for the Christmas Parade. (Engineering & Public Works Department)
- 13) Consideration and **ACTION** to employ Vector Airport Systems, LLC.'s PLANEPASS Automated Aircraft Fee Billing and Collections Solution through a 3-year agreement at a cost of 25% of landing fees collected. (Airport Department)
- 14) Consideration and **ACTION** to approve **Resolution Number 2023-129** to purchase a Fire Engine and Rear Mount Platform Truck with associated equipment for the Brownsville Fire Department to be paid with the issuance of future Certificates of Obligation. (Fire Department)
- 15) Consideration and **ACTION** for the purchase of two (2) remounted ambulances from Classic Chevrolet Fleet & Commercial in the amount of \$474,875 as budgeted in the fiscal year 2023 Capital Improvement Program (CIP). Contract #029-24-FIR-SA (Fire Department)
- 16) Consideration and **ACTION** to approve **Resolution Number 2023-130** to purchase a Spartan/SVI Heavy Rescue Fire Apparatus for the Brownsville Fire Department to be paid with the issuance of future Certificates of Obligation. (Fire Department)
- 17) Consideration and **ACTION** to pay Tyler Technologies for annual maintenance and support fees in the amount of \$59,885.98, as budgeted. (Municipal Court Department)

- 18) Consideration and **ACTION** to approve Free Fare for citizens to honor all Veterans and to transport any and all citizens wishing to attend the Veterans Job Fair and free fare for everyone wishing to attend the H-E-B Feast of Sharing Event. (Multimodal Transportation)
- 19) Consideration, and **ACTION**, if any, on the Second and Final Reading of **Ordinance Number 2023-1716** related to Paul Seales/Port Isabel/Laguna Vista v. Brownsville. (Office of the City Attorney)
- 20) Consideration and **ACTION** to approve a renewal of the Professional Services Agreement for Healthcare Consulting Services with Higginbotham and authorize a not-to-exceed contingent fee amount of \$150,000, as budgeted. (Organizational Development and Human Resources Department)

PUBLIC HEARING(S)

- 1) Public Hearing and **ACTION** on **FIRST READING** on **Ordinance Number 2023-1701-A**, amending Chapter 102 Utilities, Article III Rates and Charges, Section 102-81, of the Code of Ordinances to cancel scheduled adjustments to the Resaca Fee; setting a Public Hearing thereon; and providing a severability clause and effective date. (Brownsville Public Utilities Board)

ITEMS FOR INDIVIDUAL CONSIDERATION(S)

- 1) Consideration and **ACTION** on **Resolution Number 2023-126**, authorizing the replacement of Computershare Trust Company, N.A., as paying Agent/Registrar for the City of Brownsville's outstanding debt obligations and the appointment of a successor paying Agent/Registrar for such debt obligations. (Financial Services Department)
- 2) Consideration and **ACTION** to approve **Resolution Number 2023-121**, the Cultural and Tourism Grant Fund Round 3 policy and COVID19 map (Grants & Community Development Department).
- 3) Consideration and **ACTION** to acknowledge the Letter of Notification to Commissioner Roy De los Santos in response to Ethics Advisory Commission Recommendation in Decision EAC#2022-09-02 (Office of the City Attorney).

BOARD APPOINTMENT(S)

- 1) Consideration and **ACTION** on **Resolution Number 2023-127** to appoint, reappoint, and/or remove member(s) to the Capital Improvement Advisory Committee (CIAC). (Multimodal Transportation Department)
- 2) Consideration and **ACTION**, if any, to approve **Resolution Number 2023-104B** to appoint, reappoint, and/or remove member(s) of the Transit Advisory Committee. (Multimodal Transportation Department)

EXECUTIVE SESSION

- 1) Closed session pursuant to Tex. Gov't. Code Section 551.071 (Consultation with Attorney, including Contemplated or Pending Litigation and/or Settlement Offer) related to *EISG v. City of Brownsville*. (Office of the City Attorney)
- 2) Closed session pursuant to Tex. Gov't. Code Section 551.071 (Consultation with Attorney, including Contemplated or Pending Litigation and/or Settlement Offer) related to: *H20 v. City of Brownsville*. (Office of the City Attorney)
- 3) Closed session pursuant to Tex. Gov't. Code Sections 551.071 (Consultation with Attorney), 551.072 (Real Property Deliberation), and 551.087 (Economic Development Deliberation) related to Project Fresh. (Office of the City Attorney/City Manager's Office)
- 4) Closed session pursuant to Tex. Gov't. Code Sections 551.071 (Consultation with Attorney), 551.072 (Real Property Deliberation), and 551.087 (Economic Development Deliberation) related to Project Emerald. (Office of the City Attorney/City Manager's Office)

POSSIBLE ACTION ON ANY ITEM(S) AS DISCUSSED IN EXECUTIVE SESSION

NOTE: The City Commission of the City of Brownsville reserves the right to discuss any items in Executive Session whenever authorized under the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

- 1) Consideration and **ACTION**, if any, related to *EISG v. City of Brownsville*. (Office of the City Attorney)
- 2) Consideration and **ACTION**, if any, related to *H20 v. City of Brownsville*. (Office of the City Attorney)
- 3) Consideration and **ACTION**, if any, related to Project Fresh. (Office of the City Attorney/City Manager's Office)
- 4) Consideration and **ACTION**, if any, related to Project Emerald. (Office of the City Attorney/City Manager's Office)

ADJOURNMENT

NOTE: The City of Brownsville does not discriminate on the basis of disability in the admission of, access to, treatment of, or employment in its programs, activities, or public meetings. Any individual with a disability in need of an accommodation is encouraged to contact the Organizational Development & Human Resources Department at 956/548-6037 (voice or Relay TX) by Monday, no later than 12:00 P.M., to make proper arrangements.

By: John Cowen, Jr
Mayor of the City of Brownsville

I certify that a copy of the **November 7, 2023**, Agenda of items to be considered by the Brownsville City Commission was posted on the Bulletin Area at City Hall – Federal Building, on November 3, 2023. I further certify that the Agenda was posted on the City's website and can be downloaded by accessing: <https://brownsvilletx.gov/129/Agendas-Minutes>



Yolanda Galarza-Gomez, TRMC, City Secretary



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From:
Date: Tuesday, November 7, 2023
Agenda #: The International/Southmost Choice Neighborhood Ambassadors (Commissioner B. L. Martinez / Commissioner R. Gowen)

Summary:

Project Scope and Analysis:

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From:
Date: Tuesday, November 7, 2023
Agenda #: Housing Authority of the City of Brownsville-85th Anniversary (Commissioner B. L. Martinez / Mayor J. Cowen, Jr.)

Summary:

Project Scope and Analysis:

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Efren Trujillo, Director
Date: Tuesday, November 7, 2023
Agenda #: Citywide Grant Updates (Grants & Community Development Department)

Summary:

The City of Brownsville Grants and Community Development Department's Grant Division will be presenting on the City's awarded grants for FY 2022 – 2023 and provide a history of the City's award history since the division was first created.

Project Scope and Analysis:

Project Scope and Analysis:

The Grants Division will provide an overview of the overall grant funding received by all City departments for FY 2022 – 2023. An overview will also be provided on the funding the Grants Division has received since 2009 and specifically, the grants awarded that the Grants Division submitted for FY 2022 – 2023. The Grants Division has assisted in receiving \$7,306,484.20 for FY 2022 – 2023 and is still pending notification of award on several applications submitted. The City has received \$24,572,196.43 overall for FY 2022 – 2023.

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Dr. Art Rodriguez, DNP, MPH, CPM, Public Health Director
Date: Tuesday, November 7, 2023
Agenda #: Brownsville Animal Regulation and Care Center (BARCC) Annual Update
(Public Health Department)

Summary:

Project Scope and Analysis:

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From:
Date: Tuesday, November 7, 2023
Agenda #: City Manager Update, Mayor John Cowen, Jr., appointed Vice-Chair to the Rio Grande Valley Metropolitan Planning Organization (RGVMPO)

Summary:

Project Scope and Analysis:

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From:
Date: Tuesday, November 7, 2023
Agenda #: Approval of the Minutes:

Summary:

Project Scope and Analysis:

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Yolanda Galarza, City Secretary
Date: Tuesday, November 7, 2023
Agenda #: Minutes of October 17, 2023, Regular City Commission Meeting

Summary:

This serves as the official record of the City Commission meeting.

Project Scope and Analysis:

Upon approval, the minutes will be executed and filed as a permanent record.

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Commission Pillar:

Governance Pillar

Attachments:

1. Draft Minutes 10-17-2023



THE STATE OF TEXAS §
CITY OF BROWNSVILLE §
COUNTY OF CAMERON §

MINUTES of a **Regular Meeting** of the City Commission of the City of Brownsville, Texas, held on **Tuesday, October 17, 2023, at 5:00 P.M.** at the **City Commission Chambers**, located at **1001 East Elizabeth Street** and via **Webex Teleconference Meeting by logging on at:**

<https://brownsvilletx.webex.com/brownsvilletx/j.php?MTID=m485fba9b6686c27d62b70468893ed8fd>

The following members were present:

JOHN COWEN, JR.

Mayor

COMMISSIONERS:

TINO VILLARREAL

At-Large “A”

BRYAN L. MARTINEZ

District 1

LINDA C. MACIAS

District 2

ROY DE LOS SANTOS

District 3

PEDRO CARDENAS

District 4

HELEN RAMIREZ

City Manager

ALAN GUARD

Deputy City Manager

ELIZABETH WALKER

Assistant City Manager

WILL TREVINO

City Attorney

YOLANDA G. GOMEZ

City Secretary

ABSENT:

Commissioner Rose Gowen – At-Large “B”

Felix Saucedo - Assistant City Manager/Chief of Police

CALL TO ORDER

a) ROLL CALL

A quorum being present, Yolanda G. Gomez, City Secretary, read the call to order to consider the matters as posted and filed for the record in the Office of the City Secretary on Friday, October 13, 2023.

Mayor John Cowen Jr. called the meeting to order at 5:00 p.m.

Mayor John Cowen Jr., Commissioner Tino Villarreal, Commissioner Bryan L. Martinez, Commissioner Linda C. Macias, Commissioner Roy De los Santos, and Commissioner Pedro Cardenas attended the meeting in person.

b) INVOCATION

Alicia Justilian delivered the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAGS OF THE UNITED STATES OF AMERICA AND STATE OF TEXAS

The Pledge of Allegiance to the United States Flag and the Texas Flag was led by Mayor John Cowen, Jr., and the City Commission.

PROCLAMATION(S)

Rio Grande Valley (RGV) Fishing Area and Waterway Cleanups (Commissioner L. C. Macias / Mayor J. Cowen, Jr.)

The proclamation was read and presented by Commissioner Linda C. Macias.

Breast Cancer Awareness Month (Commissioner B. L. Martinez / Commissioner T. Villarreal)

The proclamation was read and presented by Commissioner Bryan L. Martinez.

PUBLIC COMMENT PERIOD

Yolanda Speece expressed concern regarding the City of Brownsville Police Department.

Amanda Lucio, Rene Hinojosa, and Caty Presas-Garcia were not present but did register their opinions on the public comment form.

WORK SESSION(S)

As a governmental body, the City Commission will not vote or take any formal action on any items discussed in the work session portion of the agenda.

1) Cultural and Tourism Grant Funding Round 3 - American Rescue Plan Act (Grants & Community Development Department)

Olga Moya, Grant Manager, provided a brief update of the Cultural and Tourism Grant Funding Round 3. Ms. Moya noted that the City of Brownsville received \$65.3 million in American Rescue Plan Act (ARPA) funding to combat the ongoing impacts of COVID-19 in the community.

Commissioner Roy De los Santos suggested that the department update the information on the website. He and Commissioner Pedro Cardenas recommended lowering the annual income criteria from \$3 million to \$1 million to expand eligibility for truly small businesses; additionally, they recommended prioritizing those entities that have not received prior assistance.

Mayor John Cowen Jr. requests staff to verify that all applicants have a legitimate business that is being used for the grant funds and that they are all using it for their respective businesses.

PRESENTATION(S)

City Manager's Update - Introducing Alan Guard, Deputy City Manager, and Report on International City/County Management Association (ICMA), Texas Municipal League (TML), and YTexas Event.

Helen Ramirez, City Manager, introduced Alan Guard as the new Deputy City Manager. Ms. Ramirez further informed the Commission of her participation in the 2023 International City/County Management Association (ICMA) Annual Conference in Austin, Texas, and joined other cities/counties including El Paso and Calexico, CA. Furthermore, Ms. Ramirez noted that Mayor John Cowen, Jr., Commissioner De los Santos, and Commissioner Martinez have been active participants of the Texas Municipal League (TML).

CONSENT AGENDA ITEM(S)

Upon motion by Commissioner Roy De los Santos seconded by Commissioner Linda C. Macias and carried unanimously, Consent Agenda Items 1 through 6 were approved.

1) Approval of the Minutes:

a. Minutes of October 03, 2023, City Commission Regular Meeting

- 2) Consideration and **ACTION** for the purchase and delivery of one (1) John Deere 5105M Utility Tractor and (1) John Deere FC15M Flex Wing from Deere & Company Tellus Equipment Solutions of Brownsville, Texas, through BuyBoard #706-23 in the amount of \$107,553.28, as budgeted. (Parks and Recreation Department)
- 3) Consideration and **ACTION** to approve **Resolution Number 2023-119** for the agreement between the Texas Department of Transportation (TxDOT) and the City of Brownsville to authorize the street closure(s) for the Southmost Veteran's Day Parade. (Multimodal Transportation Department)
- 4) Consideration and **ACTION** to execute a license agreement between the City of Brownsville and Penco RGV Enterprises, LLC., to allow a portion of a parking area to encroach within City property in exchange for construction of a 10' concrete bike trail. (Engineering and Public Works Department)
- 5) Consideration and **ACTION** to purchase two MTS Power Loads from Stryker Medical in the amount of \$92,793.02 as budgeted.(Fire Department)
- 6) Consideration and **ACTION** to adopt **Resolution Number 2023-123** denying Texas Gas Service Company, A Division of One Gas, Inc. ("Company"), statement of intent to increase rates filing; authorizing the hiring of Lloyd Gosselink Rochelle & Townsend; and requiring Company to reimburse the City's reasonable rate case expenses. (City Attorney's Office/City Manager's Office)

PUBLIC HEARING(S)

- 1) **Public Hearing and ACTION on 2023 Brownsville Roadway Capital Recovery Fee and signed recommendation letter from the Capital Improvement Advisory Committee (CIAC) on specifications regarding Land Use Assumptions, Capital Improvement plans for roads and calculated cost per service area, and maximum collection rate per service unit. (Multimodal Transportation Department)**

Eddie Haas, Consultant with Freese and Nichols Inc., noted that the Capital Improvement Advisory Committee (CIAC) signed a recommendation letter emphasizing the importance of community involvement and expert advice in decision-making, covering key aspects like Land Use Assumptions, Capital Improvement plans, cost estimates for various service areas, and maximum collection rates per service unit. Multimodal Transportation Staff recommends leaving the public hearing open until January 16, 2024, with the intent of providing more community engagement and transparency with the public. Commissioner Roy De los Santos encouraged the department to establish a way for the City to receive comments at any time from the citizens.

Mayor John Cowen, Jr., noted that he would like to see more options than just 25% on the collection rate and the impact that would have on the forecasting. Commissioner Pedro Cardenas strongly recommended creating a task force for this project that includes both developers and citizens. Commissioner Roy De los Santos would like to assert affordable housing through this plan.

Ramiro Martinez, Board President of Realtors, and Dennis Sanchez on behalf of developers, expressed concern about the proposed fee and its impact on potential development.

Commissioner Roy De los Santos moved to leave the Public Hearing open until January 16, 2024. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

Upon motion by Commissioner Roy De los Santos, seconded by Commissioner Pedro Cardenas, discussion was reopened.

In response to Commissioner Roy De los Santos, Helen Ramirez, City Manager, noted that since there is already an advisory committee, she would like to see first the work that they have done and how they can improve citizen engagement before creating another committee.

Mayor John Cowen, Jr., noted that the community has various groups very organized, and the city needs to meet with them to listen to their concerns.

Reba Cardenas McNair requested an invitation list to inform interested parties about the meetings. Diana Villareal from Nexus Real Estate requested that the City Commission appoint members who are familiar with the subject.

Commissioner Bryan L. Martinez encouraged the developers and realtors to register their comments on the website in a way that can be kept on the record.

Commissioner Roy De los Santos noted for the record that he would like to have the record of all comments delivered to the city in any format presented.

Commissioner Roy De los Santos moved to leave the Public Hearing open until January 16, 2024. The motion was seconded by Commissioner Linda C. Macias and carried unanimously.

2) Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2023-026, to rezone from Residential Transition (R-3) to Commercial Corridor (CC) to allow a commercial plaza for 0.7487 acres of Lot 3, Block 1, Diamond Point II Subdivision, Cameron County, Texas, located at 3201 West Alton Gloor Boulevard, Brownsville, Texas 78526, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)

Martin Vega, Planning & Redevelopment Assistant Director noted that the property owner proposed rezoning from Residential Transition (R-3) to Commercial Corridor (CC) for the purpose of establishing a commercial plaza. Mr. Vega further noted that the proposed use will share a boundary with four properties of single-family homes. Based upon the analysis and observations presented, staff recommend denial of the zoning request.

Syed Q. Jalil, property owner noted that the plaza buildings would be created for office purposes.

Protasio Guerra noted that the particular way the property is shaped makes it difficult for the owner to change the regulations of 40' setback, 6' masonry wall, and maximum structure height of 20' but they are willing to work on them.

Roberto Ruiz, adjacent property owner, expressed his concerns related to the generated traffic, maintaining the residential character of the area, and flood mitigation.

In response to Commissioner Roy De los Santos, Rick Vasquez, Planning & Redevelopment Director, noted staff find that the proposed zoning designation and use would not be appropriate for the area due to the intersection of different land uses. For that reason, staff would recommend table the item so that way they can redesign and create a planned development approach.

Commissioner Roy De los Santos noted that he understood that there are different residential areas but at the same time it's in the Alton Gloor area where they expect some commercial development. Commissioner De los Santos appreciated that staff would like to table the item to look for a better solution.

Upon motion by Commissioner Roy De los Santos, seconded by Commissioner Linda C. Macias and carried unanimously, Ordinance Number 235-2023-026 was tabled.

Commissioner Roy De los Santos moved to leave the Public Hearing open until November 14, 2023. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

3) Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2023-027, to rezone from Commercial Corridor (CC) to Regional Center (RC) to allow a plasma center for Lot 3, Block 1, Re-plat of Lots 1, 3 and 5, Strawberry Square Subdivision, Cameron County, Texas, located at 2921 Boca Chica Boulevard, Brownsville, Texas 78521, as shown in Exhibit "A". (District 2) (Planning & Redevelopment Department)

Martin Vega, Planning & Redevelopment Assistant Director noted that the property owner proposed a plasma center. Staff would like to point out that based on the analysis of surrounding commercial uses and predominant zoning within proximity to the property, the proposed use is not adequate for the area nor is it in line with the City's Comprehensive Plan. It is important to note, that this same request has been previously presented and was denied by City Commission on August 3, 2021, due to opposition related to the negative impact to the character of existing businesses within the commercial plaza. Neighboring property owner(s) were present at the Planning and Zoning Commission meeting on October 5, 2023, expressing the same concerns.

Commissioner Roy De los Santos noted that he had opposed to rezoning at the previous request, but since then, he has come to understand that many people go to these locations to make additional money, and since times are difficult for everyone, his perspective on rezoning has changed.

Mark Bernard with Coastal Realty noted that the location of this plasma center was made since the location connects perfectly but also it's in a safe place.

Upon motion by Commissioner Roy De los Santos, seconded by Commissioner Bryan L. Martinez and carried unanimously, the public hearing was closed.

Commissioner Roy De los Santos moved that Ordinance Number 235-2023-027 be approved at first reading. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

4) Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2023-028, to rezone from Residential Transition (R-3) to Commercial Corridor (CC) to allow a commercial plaza for 2.01 acres out of Lot 32, containing 18.34 acres, more or less, of the El Jardin Subdivision of the Brownell Tract Subdivision, Share 28, Espiritu Santo Grant, Cameron County, Texas, located on North Minnesota Avenue, Brownsville, Texas 78521, as shown in Exhibit "A". (District 2) (Planning & Redevelopment Department)

Martin Vega, Planning & Redevelopment Assistant Director, noted that the property owner, Valley Apartments & Homes, LLC., request to rezone the subject property from a Residential Transition (R-3) to a Commercial Corridor (CC) for the purpose of establishing a commercial plaza.

Upon motion by Commissioner Linda C. Macias, seconded by Commissioner Bryan L. Martinez and carried unanimously, the public hearing was closed.

Commissioner Roy De los Santos moved that Ordinance Number 235-2023-028 be approved at first reading. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

Commissioner Tino Villarreal stepped away during the discussion of the agenda item and did not vote on Public Hearing #4.

- 5) Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2023-029, to rezone from Residential Estate (RE) to Residential Transition (R-3) to allow a multi-family development for a 2.389-acre tract out of Lots 122, 121, and part of Boulevard Lot 120, a portion of abandoned Guerra Boulevard, and a portion of the Resaca de la Guerra, Brownsville Land and Improvement Company Subdivision, Cameron County, Texas, located at 221 Wild Rose Lane, Brownsville, Texas 78520, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)**

Martin Vega, Planning & Redevelopment Assistant Director, noted that the property owner proposed rezoning to allow a multi-family development.

Upon motion by Commissioner Bryan L. Martinez, seconded by Commissioner Roy De los Santos and carried unanimously, the public hearing was closed.

Commissioner Pedro Cardenas moved that Ordinance Number 235-2023-029 be approved at first reading. The motion was seconded by Commissioner Linda C. Macias and carried unanimously.

Commissioner Tino Villarreal stepped away during the discussion of the agenda item and did not vote on Public Hearing #5.

- 6) Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2023-030, to rezone Residential Estate (RE) to Commercial Corridor (CC) to allow an administrative office for an electric business, Lot 10, Jose Almaraz Subdivision, Cameron County, Texas, located at 1420 West Alton Gloor Boulevard, Brownsville, Texas 78520, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)**

Martin Vega, Planning & Redevelopment Assistant Director, noted that the property owner proposed rezoning to allow an administrative office for an electric business. Staff finds that the requested zoning reclassification is adequate and would fit into the character of the surrounding development. There was verbal opposition at the Planning and Zoning Commission meeting on October 5, 2023. Presented concerns were related to flood mitigation.

Maria Hoekman and Roberto Ruiz noted their main concern is that the neighborhood on the back would suffer flooding due to the elevation of the new construction.

Doro Garcia, Engineering and Public Works Director, noted that he had met with residents within the area and had reached out to Brownsville Public Utilities Board to work in collaboration to find a long-term solution for the flooding.

Upon motion by Commissioner Roy De los Santos, seconded by Commissioner Bryan L. Martinez and carried unanimously, the public hearing was closed.

Commissioner Roy De los Santos moved that Ordinance Number 235-2023-030, be approved at first reading. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

- 7) Public Hearing and ACTION on FIRST READING on Ordinance Number 235-2023-031, to rezone from Agriculture (AG) to Residential Single-Family (R-1) to allow a Single-Family Development for a 21.64-acre tract, more or less, out of a 568.83-acre tract, Espiritu Santo Grant, Share 14, Cameron County, Texas, located at Summerhill Boulevard, Olmito, Texas 78575, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)**

Martin Vega, Planning & Redevelopment Assistant Director, noted that the property owner, LLC., proposed rezoning to allow a single-family residential development.

Upon motion by Commissioner Bryan L. Martinez, seconded by Commissioner Linda C. Macias and carried unanimously, the public hearing was closed.

Commissioner Pedro Cardenas moved that Ordinance Number 235-2023-031, be adopted at first reading. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

Commissioner Roy De los Santos stepped away during the discussion of the agenda item and did not vote on Public Hearing #7.

ITEMS FOR INDIVIDUAL CONSIDERATION(S)

1) Consideration and ACTION to approve Resolution Number 2023-121, the Cultural and Tourism Grant Fund Round 3 policy and COVID19 map (Grants & Community Development Department).

Efren Trujillo, Grants & Community Development Director, explained that the proposed resolution, if approved, will designate the COVID-19 census tract map with a 14% or higher infection rate, qualified census tracts, and the grant policy. Also, all the recommendations made in the work session would be incorporated into the Grant qualifications.

Helen Ramirez, City Manager, suggested to Commission to postpone approving the resolution until the revisions were completed.

Upon motion by Commissioner Roy De los Santos seconded by Commissioner Bryan L. Martinez and carried unanimously, Resolution 2023-121 was tabled.

2) Consideration and ACTION on Resolution Number 2023-120, adopting procedures for review of Billboard applications. (Tabled on October 3, 2023) (Planning & Redevelopment Department)

Will Trevino, City Attorney, noted that the proposed resolution is for a six-month pilot for processing billboard applications, with a waiver for the requirement of providing 1000 hours of public service announcements. The Planning and Zoning Commission would be reviewing and recommending applications and the City Commission would give final approval. Mr. Trevino proposed that the resolution be amended from two-thirds majority to super majority.

Upon motion by Commissioner Bryan L. Martinez, seconded by Commissioner Roy De los Santos and carried unanimously, the agenda item was removed from the table.

Commissioner Roy De los Santos moved to approve Resolution 2023-120 with the amendment of simple majority to two-thirds majority if denied by the Planning and Zoning Commission. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

3) Consideration and possible ACTION to adopt Resolution Number 2023-124 to adopt a policy requiring that no later than February 1, 2024, all boards that require financial reporting of their members under Chapter 38 be required to broadcast their meetings live and make the recordings of those meetings available to the public as quickly as the technology which is used for the live broadcast will allow. (Commissioner R. De los Santos/Commissioner B. L. Martinez)

Commissioner Roy De los Santos noted that the intention of this item is to improve the video quality of the board meetings and provide more transparency to the citizens. The resolution requires that no later than February 1, 2024, all boards that require financial reporting of their members under Chapter 38 be required to broadcast their meetings live by the same technology or by technology more

advanced than that currently used by the City Commission and make the recordings of those meetings available to the public as quickly as the technology will allow.

Commissioner Roy De los Santos moved to approve Resolution Number 2023-124. The motion was seconded by Commissioner Linda C. Macias and carried unanimously.

4) Consideration and ACTION on the Ethics Advisory Commission Recommendation in Decision EAC#2022-09-02. (Ethics Advisory Commission/Office of the City Attorney)

Will Trevino, City Attorney, noted that the item as recommended to the Commission by the Ethics Advisory Commission (EAC) is to issue a letter of notification to Commissioner De los Santos, based on their review and hearing in March 2023 and conveyed to the City in July 2023.

Commissioner Roy De los Santos noted that the absence of a timeline in Chapter 38 does not excuse a lack of process either, which is one area for improvement when Chapter 38 is revised. Regarding the decision itself, Commissioner Roy De los Santos stated he recognizes there might be concerns because he is a member of the Mitte Foundation board and was involved in discussions to create an Memorandum of Understanding with that entity; secondly, the Mayor reminded him that, although Chapter 38 does not forbid it, it still appears wrong even when there was no financial gain to the Mitte Foundation and he was not acting on their behalf; third, in the interest of maintaining the community's reputation for ethics and transparency, Commissioner Roy De los Santos agrees it would be appropriate if the City Commission drafted a letter to that effect. However, he also noted there were two allegations against him yet these allegations have nothing to do with this decision and he was not afforded notice to prepare a defense.

Mr. Trevino, City Attorney, noted in reviewing the hearing that occurred back in March, there were three motions: first motion was whether or not Section 38-31, which is improper economic benefit, was met and that motion was approved to say that he did not violate Ch 38-31. The second motion with regards to Section 38-36, which is conflicting outside employment, the motion was that he did not violate and was approved with the exception of Mr. Stapleton who voted against it. The third motion with regards to Section 38-35, which is representation of private interest, the ethics commission did find that they should recommend a letter of notification to the Commissioner on that, and I believe it was based on participation with a Memorandum of Understanding (MOU) with the HOT Tax.

Mr. Trevino further noted that the Commission has the option to accept the recommendation and send out the notification letter. Or if the Commission needs more time, it can review the hearing with a copy of the video.

Commissioner Roy De los Santos noted that this is merely to inform you that you have the option of issuing a letter expressing our opinion that the participation is improper due to its unpleasant appearance, although it does not constitute a violation. Chapter 38 does not require your inclusion in your letter; however, I apprise you that the decision's finding was that participation constituted a violation. However, upon reading that section, it becomes clear that participation itself does not constitute a violation; rather, the violation occurs if I had been acting as a representative of the third party and had been compensated specifically for that representation before the body. Neither of these constituted violations, and neither could have been discovered, because the decision did not require either of those.

David Willis, Ethics Chair, noted that specific sections (38-35), titled representation of a private interest, prohibits a City Commissioner from representing another entity before City staff having responsibility for making a recommendation or take any action on behalf of that entity and in the end

that was the problem that we ran into in this case. There was a series of emails that were exchanged June 3rd and June 16th and June 23rd where Commissioner De los Santos was using his City email address and was assisting staff at the City Manager's Office on the terms of this MOU; Mr. De los Santos did not vote on this MOU but the problem that the EAC found was that he was doing this with city staff outside of the open session.

Mayor John Cowen, Jr., noted that this serves as a valuable reminder to elected officials that in the event of a remote conflict or potential conflict, they should submit their concerns in writing to the city attorney. Commissioner Bryan L. Martinez observed that this situation presents an opportunity to establish a systematic approach, as failure to adhere to procedural requirements complicates decision-making on these matters. In response Mayor John Cowen, Jr., the City Attorney stated that while the ethics ordinance does not explicitly mandate him to do so, the absence of a substantial interest means there is no conflict of interest in Commissioner De los Santos participating in this vote.

Commissioner Linda C. Macias moved that the Ethics Advisory Commission recommendation in Decision EAC#2022-09-02, be approved. The motion was seconded by Commissioner Tino Villarreal and carried with roll call vote as follows:

Ayes: Commissioner Macias, Commissioner Villarreal, Commissioner Cardenas and Mayor Cowen, Jr.

Nays: Commissioner Martinez and Commissioner De los Santos

BOARD APPOINTMENT(S)

- 1) Consideration and ACTION, if any, to approve Resolution Number 2023-104A to appoint, reappoint, and/or remove member(s) of the Transit Advisory Committee. (Multimodal Transportation Department)**

Resolution Number 2023-104-A was approved as follows:

Commissioner Roy De los Santos moved to appoint *Martha Galvan* to the Transit Advisory Committee. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

Commissioner Pedro Cardenas moved to appoint *Christina Villareal* to the Transit Advisory Committee. The motion was seconded by Commissioner Bryan L. Martinez and carried unanimously.

Mayor John Cowen, Jr., moved to appoint *Sandra Gomez* to the Transit Advisory Committee. The motion was seconded by Commissioner Pedro Cardenas and carried unanimously.

EXECUTIVE SESSION

Upon motion by Commissioner Roy De los Santos, seconded by Commissioner Pedro Cardenas and carried unanimously, the Executive Session convened at 8:09 p.m. to discuss the following items:

- 1) Closed session pursuant to Tex. Gov't Code Sections 551.071 (Consultation with Attorney) regarding Project Ecosystem (Office of the City Attorney)**
- 2) Closed session pursuant to Tex. Gov't Code Sections 551.071 (Consultation with Attorney) regarding policy on employee investigations (Office of the City Attorney)**
- 3) Closed session pursuant to Tex. Gov't Code Section 551.071 (Consultation with Attorney, including Contemplated or Pending Litigation and/or Settlement Offer) related to EISG v. City of Brownsville. (Office of the City Attorney)**

All items listed in Executive Session were discussed during the Executive Session, and a certified agenda was kept.

Upon conclusion of Executive Session, Mayor John Cowen, Jr., convened the Regular meeting at 9:44 pm. There was no action taken in the Executive Session.

POSSIBLE ACTION ON ANY ITEM(S) AS DISCUSSED IN EXECUTIVE SESSION

NOTE: The City Commission of the City of Brownsville reserves the right to discuss any items in Executive Session whenever authorized under the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

1) Closed session pursuant to Tex. Gov't Code Sections 551.071 (Consultation with Attorney) regarding Project Ecosystem (Office of the City Attorney)

No action taken.

2) Closed session pursuant to Tex. Gov't Code Sections 551.071 (Consultation with Attorney) regarding policy on employee investigations (Office of the City Attorney)

No action taken.

3) Closed session pursuant to Tex. Gov't Code Section 551.071 (Consultation with Attorney, including Contemplated or Pending Litigation and/or Settlement Offer) related to EISG v. City of Brownsville. (Office of the City Attorney)

Commissioner Roy De los Santos moved to approve as discussed in executive session. The motion was seconded by Commissioner Linda C. Macias and carried as follows:

Ayes: Mayor Cowen, Jr., Commissioner Martinez, Commissioner Macias, and Commissioner De los Santos.

Nays: Commissioner Villarreal and Commissioner Cardenas.

ADJOURNMENT

There being no further business to come before the Commission, upon duly made motion the meeting adjourned at 9:45 p.m.

Approved this 7th day of November, 2023.

John Cowen, Jr.
Mayor

Attest:

Yolanda G. Gomez, TRMC
City Secretary

Respectfully submitted by:
Blanca E. Gonzalez, Administrative Specialist
Office of the City Secretary



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Martin Vega, Senior Planner
Date: Tuesday, November 7, 2023
Agenda #: **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-027**, to rezone from Commercial Corridor (CC) to Regional Center (RC) to allow a plasma center for Lot 3, Block 1, Re-plat of Lots 1, 3 and 5, Strawberry Square Subdivision, Cameron County, Texas, located at 2921 Boca Chica Boulevard, Brownsville, Texas 78521, as shown in Exhibit "A". (District 2) (Planning & Redevelopment Department)

Summary:

Property owner, B-Y Strawberry Square, LTD., proposes to change the Zoning Designation for Lot 3, Block 1, Replat of Lots 1, 3, and 5, Strawberry Square Subdivision, Cameron County, Texas, located at 2921 Boca Chica Boulevard, Brownsville, Texas 78521. The applicant requests to rezone the subject property from Commercial Corridor (CC) to Regional Center (RC) for the purpose of establishing a plasma center on the subject property.

The predominant land use in the surrounding area is commercial business. Additional uses, such as undeveloped land and single-family dwelling are also present within proximity of the subject property.

The property is located within the Core Central District and Town Corridor. The request is not consistent with the Future Land Use Map.

Project Scope and Analysis:

The subject property is currently site to an existing commercial plaza which primarily houses retail stores and restaurants. The proposed plasma center will occupy a vacant suite which will be repurposed to accommodate the use. Under the Unified Development Code, additional requirements were created for uses, such as plasma centers, that are cause of frequent complaints. In order to provide additional protection to abutting uses, and to better control the amount of plasma centers within the City, the UDC requires that a minimum distance of 1-mile exists between these types of establishments. Additionally, a minimum zoning designation of Regional Center (RC) is required to open a plasma center.

Staff would like to point out that based on the analysis of surrounding commercial uses and predominant zoning within proximity to the property, the proposed use is not adequate for the area nor is it in line with the City's Comprehensive Plan. It is important to note, that this same request has been previously presented and was denied by the City Commission on August 3, 2021, due to opposition and concerns related to loitering caused by this type of business, the low-income demographics targeted by the business model, and in general, the negative impact to the character of existing businesses within the commercial plaza.

Funding:

Source: Fiscal Dept. Approval Not Required

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

Neighboring property owner(s) were present at the Planning and Zoning Commission meeting on October 5, 2023, expressing the same concerns mentioned above. The Planning and Zoning Commission approved this rezoning from Commercial Corridor (CC) to Regional Center (RC).

The item was approved by City Commission at 1st Reading on October 17th, 2023.

Commission Pillar:

Planning & Redevelopment

Attachments:

1. Binder 235-2023-027

STAFF REPORT

Planning & Redevelopment Department
Zoning Division
1034 E. Levee St. 2nd Floor
Brownsville, TX 78520
(956) 548-6150



APPLICATION DETAILS

Applicant/Representative: B-Y Strawberry Square LTD/Jimmy Barnard	Geo ID: 06-8400-0000-0030-00
Property Address: 2921 Boca Chica Boulevard	Case No.: 235-2023-027
Application Type: Rezone	Proposed Use: Plasma Center
Current Zoning: Commercial Corridor (CC)	Proposed Zoning: Regional Center (RC)
Application Date: September 7, 2023	P&Z Date: October 5, 2023
CC Meeting Dates: 1 st – October 17, 2023/ 2 nd – November 7, 2023	Electoral District: 2
Overlay(s): N/A	Annexation Year: 1930 - 1964
No. of Mail-outs: 18	Opposition: No Verbal or Written Opposition

PROPERTY DETAILS

Legal Description: Lot 3, Block 1, Re-plat of Lots 1, 3 and 5, Strawberry Square Subdivision, Cameron County, Texas, Brownsville, Texas 78521.

Roadway Frontage: The subject property is fronting Boca Chica Boulevard a Primary Arterial.

Predominant Land Use: The predominant land use within the area is Commercial Business.

ABUTTING LAND USES (SEE ATTACHED AERIAL VIEW MAP)

North: Undeveloped Land and Commercial Business
East: Undeveloped Land and Commercial Business
South: Single-Family Dwelling and Commercial Business
West: Single-Family Dwelling and Commercial Business

EXISTING ZONING DESIGNATIONS (SEE ATTACHED ZONING MAP)

North: Commercial Corridor (CC)
East: Commercial Corridor (CC)
South: Traditional Neighborhood (TN), Commercial Corridor (CC), and Light Industrial (LI)
West: Commercial Corridor (CC)

FUTURE LAND USE PLAN (SEE ATTACHED FUTURE LAND USE MAP)

The City of Brownsville Future Land Use Plan indicates that the subject land is located within the Town Corridor / Core Central District. Land uses in the Town Corridor primarily residential, with small clusters of commercial land uses. Residential land uses should be primarily single-family with attached townhomes and some larger lots with an average density of 3 dwelling units per acre. Uses within the Core Central District should be primarily commercial, neighborhood and service oriented. Some light industrial uses that are compatible with surrounding residential areas are permitted. Residential uses should be primarily single-family homes and have an average density of 3 dwelling units per acre. It is the opinion of staff that the request is not consistent with the Future Land Use Plan.

REVIEW CRITERIA

After an analysis of the subject property and surrounding area, it is the opinion of staff that the proposed zoning/use would generally not be compatible with surrounding uses and would create significant or burdensome demands on public facilities such as water, wastewater, and transportation. In general, the proposed zoning/use would not fit into the character of the neighborhood without having adverse impacts on the area.

STAFF RECOMMENDATION

Based upon the analysis presented in this report and based on observations from the Planning and Redevelopment Department, staff recommends denial of the zoning request from Commercial Corridor (CC) to Regional Center (RC).

ORDINANCE NUMBER 235-2023-027

AN ORDINANCE AMENDING THE “CITY ZONING ORDINANCE” BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING \$2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City’s comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the “City Zoning Ordinance” by amending the Official Zoning Atlas so to rezone from Commercial Corridor (CC) to Regional Center (RC) zoning to allow a plasma center for Lot 3, Block 1, Re-plat of Lots 1, 3 and 5, Strawberry Square Subdivision, Cameron County, Texas, located at 2921 Boca Chica Boulevard, Brownsville, Texas 78521, as shown in Exhibit “A”; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

Section 2. That all provisions of the City of Brownsville Unified Development Code are incorporated herein by reference and declared to be a part hereof; and that this ordinance shall become effective on the earliest date allowed by law.

INTRODUCED at a public hearing on **October 17, 2023**. Passed at First Reading on **October 17, 2023**. PASSED at Second and Final Reading and ADOPTED, APPROVED, and ENACTED on **November 7, 2023**.

(SEAL)

BY: _____
John Cowen Jr.
Mayor

ATTEST: _____
Yolanda Galarza-Gomez
City Secretary



SUBJECT PROPERTY

BOCA CHICA BLVD

TEXAS AVE

Case No. 235-2023-027





City of Brownsville Zoning Map

Zoning Districts

-  AG - Agricultural
-  RE - Residential Estate
-  R-1 - Residential Single Family
-  R-2 - Residential Suburban
-  R-3 - Residential Transition
-  TN - Traditional Neighborhood
-  TN-MU - Traditional Neighborhood Mixed Use
-  TN-C - Traditional Neighborhood Corridor
-  DE - Downtown Edge
-  DG - Downtown General
-  DC - Downtown Core
-  CC - Corridor Commercial
-  RC - Reginal Center
-  LI - Light Industrial
-  HI - Heavy Industrial
-  Brownsville City Limits

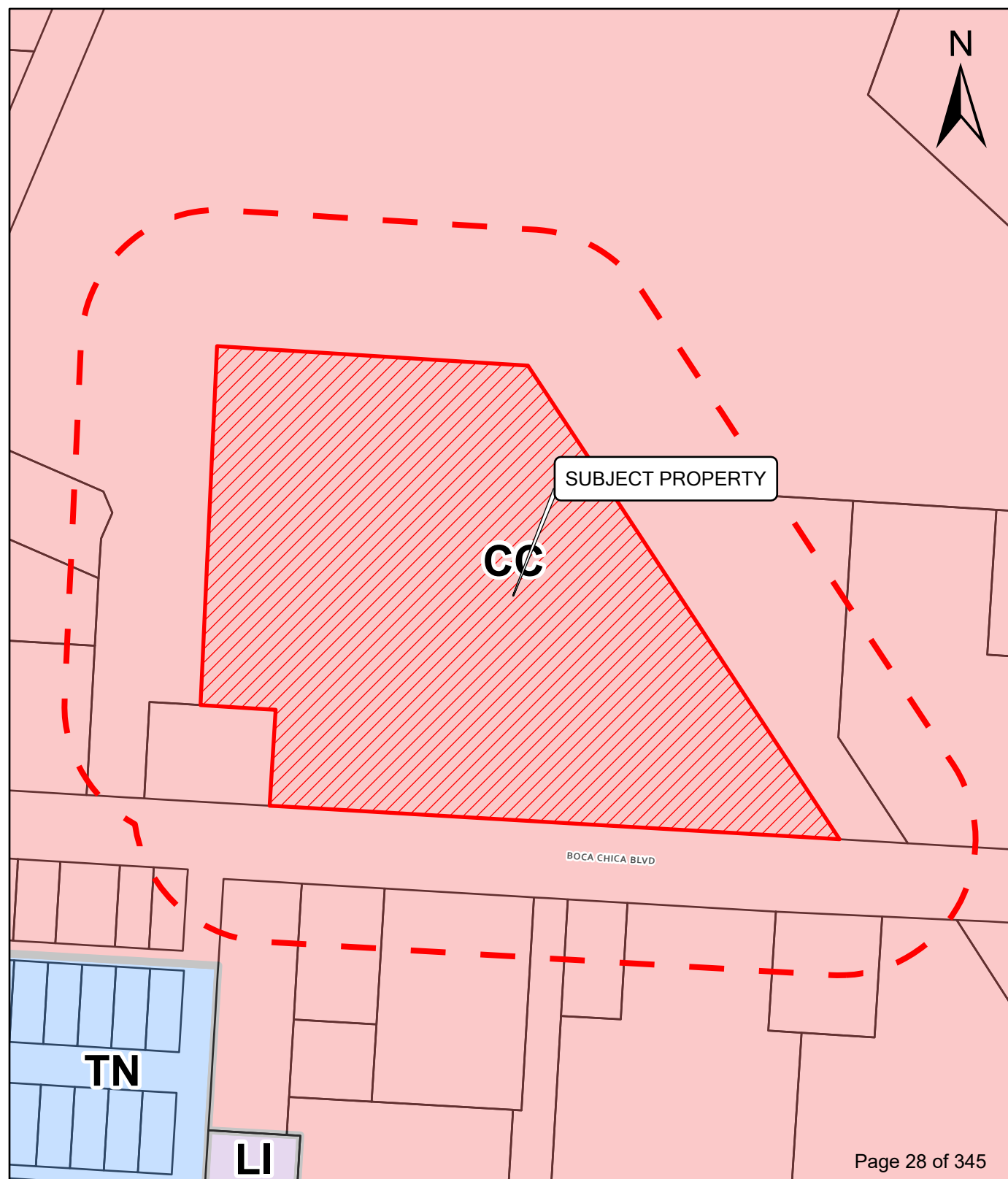
EXHIBIT "A"

Rezoning request:
Case # 235-2023-027

Current Zoning:
CC, Commercial Corridor

Proposed Zoning:
RC, Regional Center

Brownsville Electoral District #2





FUTURE LAND USE PLAN

DISTRICTS

- Core Central
- Core East
- Core West
- Downtown Enterprise
- Downtown Riverside
- Emerging City Central
- Emerging City East
- Emerging City West
- Employment Hub
- Future Employment Hub
- Reserve Future City
- Transition Central
- Transition East
- Transition West
- Water Management

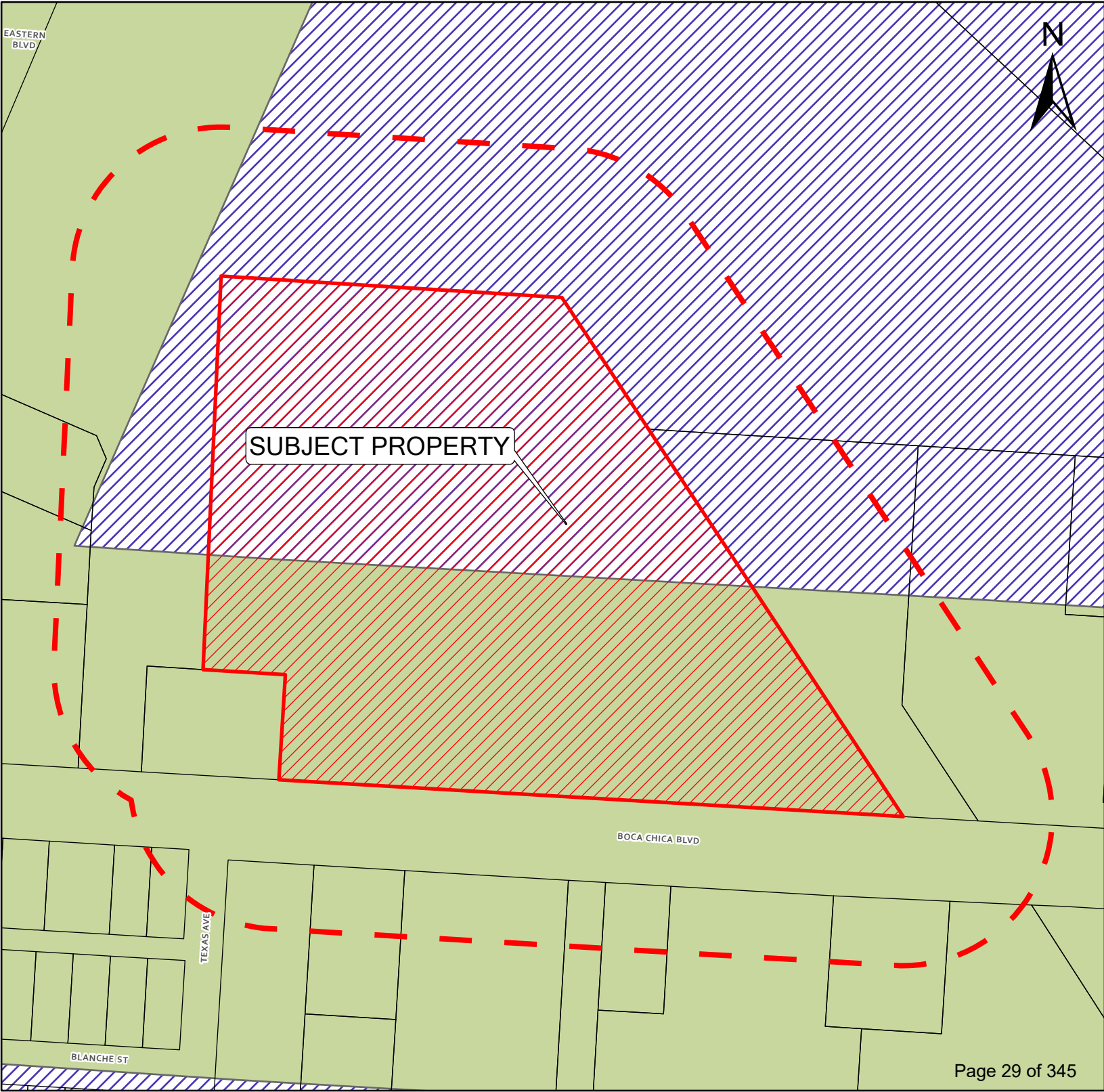
NODES

- Downtown Node
- Primary Regional Node
- Secondary Regional Node
- Sub Regional Node

CORRIDORS

- Gateway Corridor
- Linkage Corridor
- Loop Corridor
- Town Corridor
- Brownsville City Limits

Zoning Case No.
235-2023-027





To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Martin Vega, Senior Planner
Date: Tuesday, November 7, 2023
Agenda #: **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-028**, to rezone from Residential Transition (R-3) to Commercial Corridor (CC) to allow a commercial plaza for 2.01 acres out of Lot 32, containing 18.34 acres, more or less, of the El Jardin Subdivision of the Brownell Tract Subdivision, Share 28, Espiritu Santo Grant, Cameron County, Texas, located on North Minnesota Avenue, Brownsville, Texas 78521, as shown in Exhibit "A". (District 2) (Planning & Redevelopment Department)

Summary:

Property owner, Valley Apartments & Homes, LLC., proposes to change the Zoning Designation for 2.01 acres out of Lot 32, containing 18.34 acres, more or less, of the El Jardin Subdivision of the Brownell Tract Subdivision, Share 28, Espiritu Santo Grant, Cameron County, Texas, located on North Minnesota Avenue, Brownsville, Texas 78521. The applicant requests to rezone the subject property from Residential Transition (R-3) to Commercial Corridor (CC) for the purpose of establishing a commercial plaza.

The predominant land uses in the surrounding area are single-family dwelling and commercial development. Additional uses, such as undeveloped land and multi-family development are also present within proximity of the subject property.

The property is located within the Town Corridor. The proposed zoning/use is consistent with the Future Land Use Map.

Project Scope and Analysis:

To provide some background information, the 2.01 acres that are to be rezoned are part of an 18.34-acre tract that will be developed into a duplex subdivision. Overall, the development will consist of 4 commercial lots, 2.01 acres of commercial plaza with frontage on Minnesota Avenue, and 62 duplex lots on the remaining 16.33 acres. The current zoning of the entire property (R-3) only permits residential uses (single-family, duplex, and multi-family). The requested (CC) zoning designation would allow the proposed use. It is important to point out that residential adjacency requirements will apply to the proposed commercial development

given that it will be abutting residential use (40' setback, 6' masonry wall, and maximum structure height of 20'). The developer has designed the subdivision to comply with these requirements.

Funding:

Source: Fiscal Dept. Approval Not Required

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

There was no written or verbal opposition at the Planning and Zoning Commission meeting on October 5, 2023. The Planning and Zoning Commission approves this rezoning from Residential Transition (R-3) to Commercial Corridor (CC).

The item was approved by City Commission at 1st Reading on October 17th, 2023.

Commission Pillar:

Planning & Redevelopment

Attachments:

1. Binder 235-2023-028

STAFF REPORT

Planning & Redevelopment Department
Zoning Division
1034 E. Levee St. 2nd Floor
Brownsville, TX 78520
(956) 548-6150



APPLICATION DETAILS

Applicant/Representative: Valley Apartments & Homes LLC.
Property Address: North Minnesota Avenue
Application Type: Rezone
Current Zoning: Residential Transition (R-3)
Application Date: September 7, 2023
CC Meeting Dates: 1st – October 17, 2023/ 2nd – November 7, 2023
Overlay(s): N/A
No. of Mail-outs: 12

Geo ID: 73-8670-0320-0000-00
Case No.: 235-2023-028
Proposed Use: Commercial Plaza
Proposed Zoning: Commercial Corridor (CC)
P&Z Date: October 5, 2023
Electoral District: 2
Annexation Year: 1991
Opposition: No Verbal or Written Opposition

PROPERTY DETAILS

Legal Description: 2.01 acres out of Lot 32, containing 18.34 acres, more or less, of the El Jardin Subdivision of the Brownell Tract Subdivision, Share 28, Espiritu Santo Grant, Cameron County, Texas, located on North Minnesota Avenue, Brownsville, Texas 78521.
Roadway Frontage: The subject property is fronting North Minnesota Avenue, a Secondary Arterial.
Predominant Land Use: The predominant land use within the area is Single-Family Dwelling and Commercial.

ABUTTING LAND USES (SEE ATTACHED AERIAL VIEW MAP)

North: Undeveloped Land and Multifamily Development
East: Undeveloped Land, Single-Family Dwelling, and Commercial Business
South: Undeveloped Land, Single-Family Dwelling, Multifamily Development, and Commercial Business
West: Undeveloped Land

EXISTING ZONING DESIGNATIONS (SEE ATTACHED ZONING MAP)

North: Residential Estate (RE), Residential Transition (R-3), Commercial Corridor (CC), and Light Industrial (LI)
East: Residential Estate (RE) and Commercial Corridor (CC)
South: Agricultural (AG), Residential Estate (RE), Residential Transition (R-3), and Commercial Corridor (CC)
West: Agricultural (AG) and Residential Transition (R-3)

FUTURE LAND USE PLAN (SEE ATTACHED FUTURE LAND USE MAP)

The City of Brownsville Future Land Use Plan indicates that the subject land is located within the Town Corridor. Land uses in the Town Corridor are primarily residential, with small clusters of commercial land uses. Residential land uses should be primarily single-family with attached townhomes and some larger lots with an average density of 3 dwelling units per acre. It is the opinion of staff that the request is consistent with the Future Land Use Plan.

REVIEW CRITERIA

After an analysis of the subject property and surrounding area, it is the opinion of staff that the proposed zoning/use would generally be compatible with surrounding uses and would not create significant or burdensome demands on public facilities such as water, wastewater, and transportation. In general, the proposed zoning/use would fit into the character of the neighborhood without having adverse impacts on the area.

STAFF RECOMMENDATION

Based upon the analysis presented in this report and based on observations from the Planning and Redevelopment Department, staff recommends approval of the zoning request from Residential Transition (R-3) to Commercial Corridor (CC).

ORDINANCE NUMBER 235-2023-028

AN ORDINANCE AMENDING THE “CITY ZONING ORDINANCE” BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING \$2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City’s comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the “City Zoning Ordinance” by amending the Official Zoning Atlas so to rezone from Residential Transition (R-3) to Commercial Corridor (CC) to allow a commercial plaza for 2.01 acres out of Lot 32, containing 18.34 acres, more or less, of the El Jardin Subdivision of the Brownell Tract Subdivision, Share 28, Espiritu Santo Grant, Cameron County, Texas, located on North Minnesota Avenue, Brownsville, Texas 78521, as shown in Exhibit “A”; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

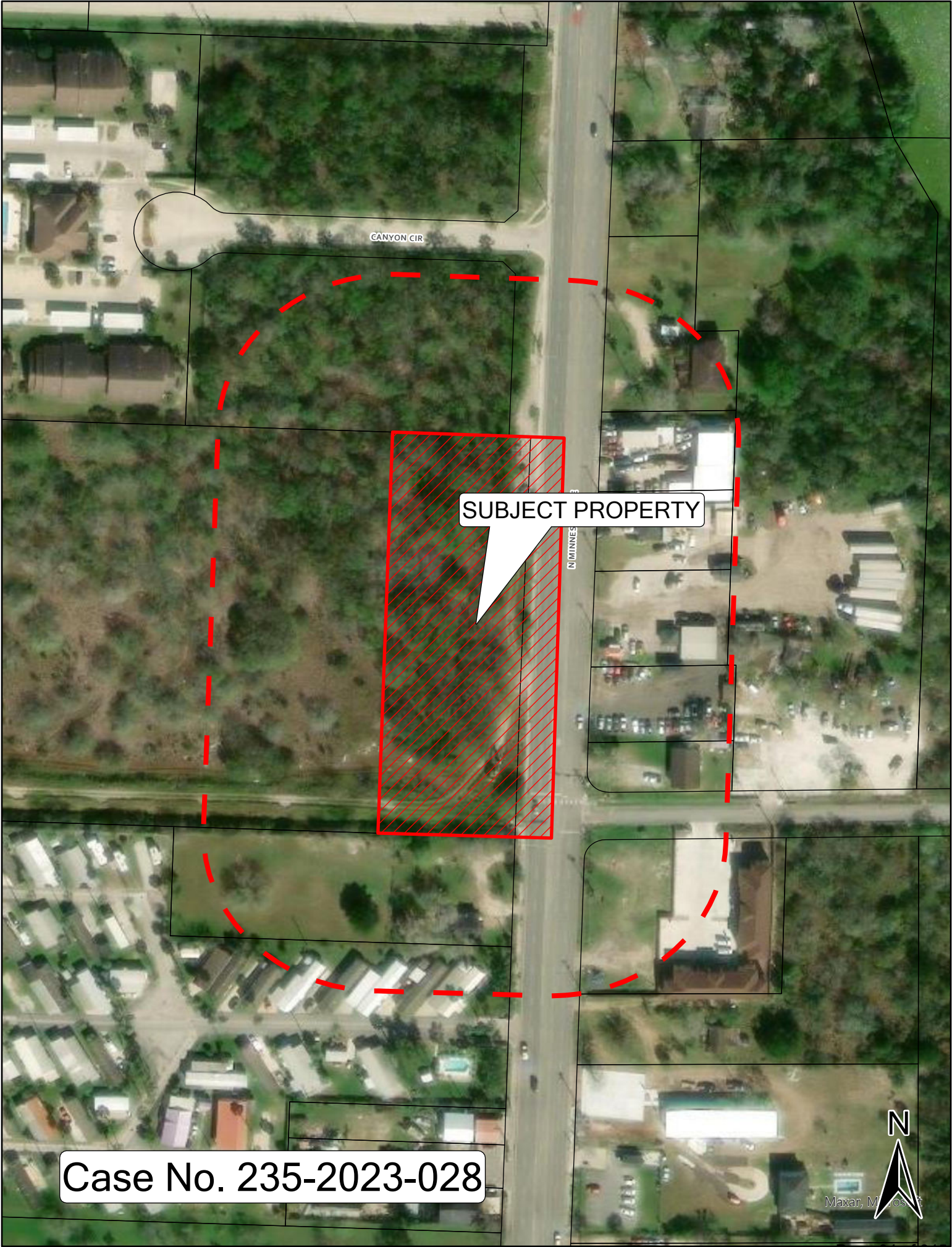
Section 2. That all provisions of the City of Brownsville Unified Development Code are incorporated herein by reference and declared to be a part hereof; and that this ordinance shall become effective on the earliest date allowed by law.

INTRODUCED at a public hearing on **October 17, 2023**. Passed at First Reading on **October 17, 2023**. PASSED at Second and Final Reading and ADOPTED, APPROVED, and ENACTED on **November 7, 2023**.

(SEAL)

BY: _____
John Cowen Jr.
Mayor

ATTEST: _____
Yolanda Galarza-Gomez
City Secretary



Case No. 235-2023-028





City of Brownsville Zoning Map

Zoning Districts

- AG - Agricultural
- RE - Residential Estate
- R-1 - Residential Single Family
- R-2 - Residential Suburban
- R-3 - Residential Transition
- TN - Traditional Neighborhood
- TN-MU - Traditional Neighborhood Mixed Use
- TN-C - Traditional Neighborhood Corridor
- DE - Downtown Edge
- DG - Downtown General
- DC - Downtown Core
- CC - Corridor Commercial
- RC - Reginal Center
- LI - Light Industrial
- HI - Heavy Industrial
- Brownsville City Limits

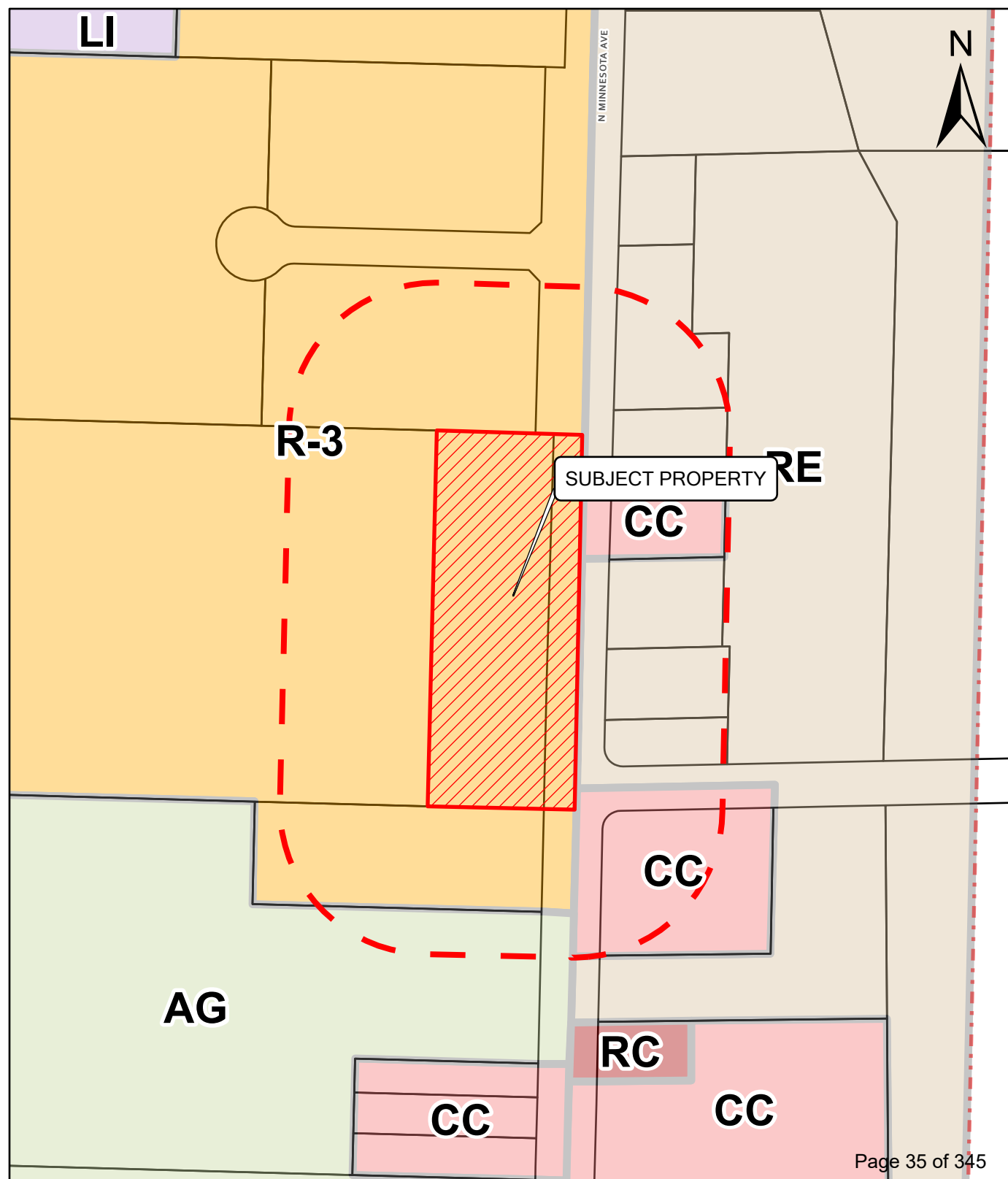
EXHIBIT "A"

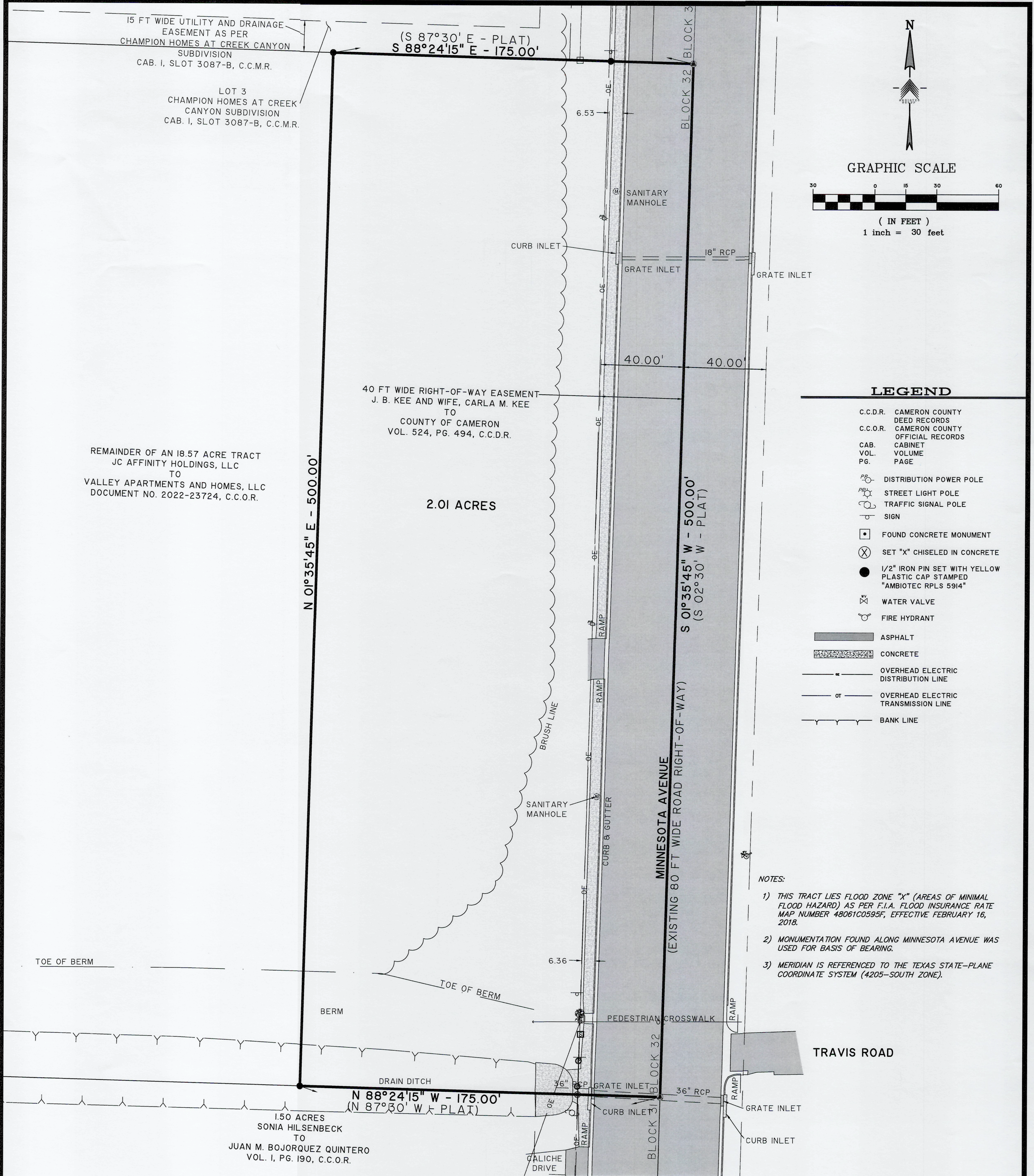
Rezoning request:
Case # 235-2023-028

Current Zoning:
R-3, Residential Transition

Proposed Zoning:
CC, Commercial Corridor

Brownsville Electoral District #2





THE UNDERSIGNED HEREBY STATES THAT THIS SURVEY WAS MADE ON THE GROUND ON 8/10/2022, THAT THE IMPROVEMENTS ON THE GROUND ARE AS SHOWN HEREON, THAT THERE ARE NO VISIBLE ENCROACHMENTS, NO VISIBLE OVERLAPINGS, NO APPARENT CONFLICTS OR VISIBLE EASEMENTS, EXCEPT AS SHOWN HEREON. THIS SURVEY CONFORMS TO OR EXCEEDS THE CURRENT MINIMUM STANDARDS AS ADOPTED BY THE TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

Guadalupe B. Nunez Jr.
GUADALUPE B. NUNEZ JR.
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5914



8-10-23

SURVEY

OF A 2.01 ACRE TRACT OF LAND, MORE OR LESS, OUT OF AN 18.57 ACRE TRACT OUT OF BLOCK 32 OUT OF EL JARDIN SUBDIVISION OF BROWNELL TRACT IN SHARE 28, ESPIRITU SANTO GRANT, AS RECORDED IN VOLUME 5, PAGE 36 OF THE MAP RECORDS OF CAMERON COUNTY, TEXAS. SAID 18.57 ACRES BEING CONVEYED TO VALLEY APARTMENTS AND HOMES, LLC AS RECORDED IN DOCUMENT NUMBER 2022-23724 OF THE OFFICIAL RECORDS OF CAMERON COUNTY, TEXAS.

PREPARED FOR:
CARLOS GARZA

AMBIOTEC
 CIVIL ENGINEERING GROUP, INC.

5420 Paredes Line Road
 Brownsville, Texas 78526
 (956)548-9333
 Fax (956)548-9399
 Drawn by: G.N., O.S.



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Martin Vega, Senior Planner
Date: Tuesday, November 7, 2023
Agenda #: **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-029**, to rezone from Residential Estate (RE) to Residential Transition (R-3) to allow a multi-family development for a 2.389-acre tract out of Lots 122, 121, and part of Boulevard Lot 120, a portion of abandoned Guerra Boulevard, and a portion of the Resaca de la Guerra, Brownsville Land and Improvement Company Subdivision, Cameron County, Texas, located at 221 Wild Rose Lane, Brownsville, Texas 78520, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)

Summary:

Property owner, Zonia C. Pullen, proposes to change the Zoning Designation for a 2.389-acre tract out of Lots 122, 121, and part of Boulevard Lot 120, a portion of abandoned Guerra Boulevard, and a portion of the Resaca de la Guerra, Brownsville Land and Improvement Company Subdivision, Cameron County, Texas, located at 221 Wild Rose Lane, Brownsville, Texas 78520. The applicant requests to rezone the subject property from Residential Estate (RE) to Residential Transition (R-3) for the purpose of establishing a multi-family development.

The predominant land use in the surrounding area is single-family dwelling. Additional uses, such as undeveloped land and multi-family development are also present within proximity of the subject property.

The property is located within the Core West District. The proposed zoning/use is consistent with the Future Land Use Map.

Project Scope and Analysis:

The subject property has an area of 2.389 acres and is currently site to a single-family residence. The applicant is requesting a zoning reclassification due to the current zoning (RE) only allowing large single-family estates. A development consisting of 3 units, or more, is categorized as multi-family and requires a minimum zoning designation of (R-3). It is important to point out that the proposed zoning designation (R-3) may allow a density of up to 30 dwelling units per acre if all zoning and commercial requirements are met. A development proposal has

not yet been submitted to staff to determine the final density. It is the intention of the applicant to subdivide her property to separate the single-family use from the multi-family development.

Staff finds that the proposed development compliments the surrounding commercial, residential, and public facility uses. It is important to point out that several multi-family uses already exist within close proximity of this area. In general, the use would be compatible and would fit within the character of the neighborhood.

Funding:

Source: Fiscal Dept. Approval Not Required

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

There was no written or verbal opposition at the Planning and Zoning Commission meeting on October 5, 2023. Planning and Zoning Commission approves this rezoning from Residential Estate (RE) to Residential Transition (R-3).

The item was approved by City Commission at 1st Reading on October 17th, 2023.

Commission Pillar:

Planning & Redevelopment

Attachments:

1. Binder 235-2023-029

STAFF REPORT

Planning & Redevelopment Department
Zoning Division
1034 E. Levee St. 2nd Floor
Brownsville, TX 78520
(956) 548-6150



APPLICATION DETAILS

Applicant/Representative: Zonia C. Pullen

Property Address: 221 Wild Rose Lane

Application Type: Rezone

Current Zoning: Residential Estate (RE)

Application Date: September 8, 2023

CC Meeting Dates: 1st – October 17, 2023/ 2nd – November 7, 2023

Overlay(s): N/A

No. of Mail-outs: 13

Geo ID: 01-9330-2010-1200-00

Case No.: 235-2023-029

Proposed Use: Multi-family Development

Proposed Zoning: Residential Transition (R-3)

P&Z Date: October 5, 2023

Electoral District: 4

Annexation Year: 1930 - 1964

Opposition: No Verbal or Written Opposition

PROPERTY DETAILS

Legal Description: 2.389-acre tract out of Lots 122, 121, and part of Boulevard Lot 120, a portion of abandoned Guerra Boulevard, and a portion of the Resaca de la Guerra, Brownsville Land and Improvement Company Subdivision, Cameron County, Texas, located at 221 Wild Rose Lane, Brownsville, Texas 78520.

Roadway Frontage: The subject property is fronting Wild Rose Lane, a Collector.

Predominant Land Use: The predominant land use within the area is Single-Family Dwelling.

ABUTTING LAND USES (SEE ATTACHED AERIAL VIEW MAP)

North: Undeveloped Land and Single-Family Dwelling

East: Undeveloped Land and Single-Family Dwelling

South: Undeveloped Land and Single-Family Dwelling

West: Undeveloped Land, Single-Family Dwelling, and Multi-Family Development

EXISTING ZONING DESIGNATIONS (SEE ATTACHED ZONING MAP)

North: Residential Suburban (R-2)

East: Residential Estate (RE) and Residential Single-Family (R-1)

South: Residential Single-Family (R-1)

West: Residential Suburban (R-2) and Residential Transition (R-3)

FUTURE LAND USE PLAN (SEE ATTACHED FUTURE LAND USE MAP)

The City of Brownsville Future Land Use Plan indicates that the subject land is located within the Core West District. Uses within the Core West District are predominantly residential, with substantial allotments of community facilities and institutional uses. Residential uses should have an average density of 3 dwelling units per acre and should consist of mostly single family homes. It is the opinion of staff that the request is consistent with the Future Land Use Plan.

REVIEW CRITERIA

After an analysis of the subject property and surrounding area, it is the opinion of staff that the proposed zoning/use would generally be compatible with surrounding uses and would not create significant or burdensome demands on public facilities such as water, wastewater, and transportation. In general, the proposed zoning/use would fit into the character of the neighborhood without having adverse impacts on the area.

STAFF RECOMMENDATION

Based upon the analysis presented in this report and based on observations from the Planning and Redevelopment Department, staff recommends approval of the zoning request from Residential Estate (RE) to Residential Transition (R-3)

ORDINANCE NUMBER 235-2023-029

AN ORDINANCE AMENDING THE “CITY ZONING ORDINANCE” BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING \$2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City’s comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the “City Zoning Ordinance” by amending the Official Zoning Atlas so to rezone from Residential Estate (RE) to Residential Transition (R-3) to allow a multi-family development for a 2.389-acre tract out of Lots 122, 121, and part of Boulevard Lot 120, a portion of abandoned Guerra Boulevard, and a portion of the Resaca de la Guerra, Brownsville Land and Improvement Company Subdivision, Cameron County, Texas, located at 221 Wild Rose Lane, Brownsville, Texas 78520, as shown in Exhibit “A”; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

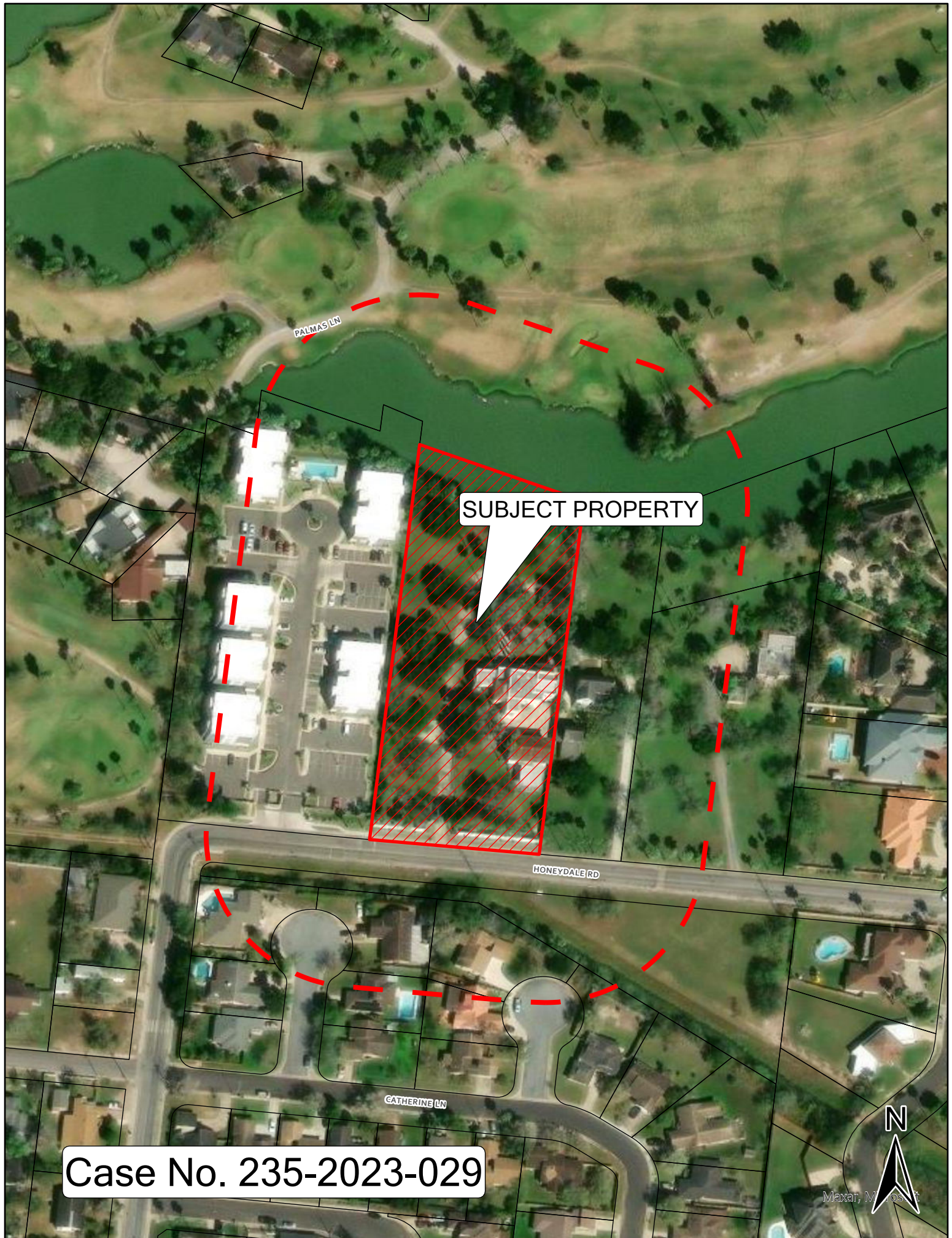
Section 2. That all provisions of the City of Brownsville Unified Development Code are incorporated herein by reference and declared to be a part hereof; and that this ordinance shall become effective on the earliest date allowed by law.

INTRODUCED at a public hearing on **October 17, 2023**. Passed at First Reading on **October 17, 2023**. PASSED at Second and Final Reading and ADOPTED, APPROVED, and ENACTED on **November 7, 2023**.

(SEAL)

BY: _____
John Cowen Jr.
Mayor

ATTEST: _____
Yolanda Galarza-Gomez
City Secretary



Case No. 235-2023-029





City of Brownsville Zoning Map

Zoning Districts

-  AG - Agricultural
-  RE - Residential Estate
-  R-1 - Residential Single Family
-  R-2 - Residential Suburban
-  R-3 - Residential Transition
-  TN - Traditional Neighborhood
-  TN-MU - Traditional Neighborhood Mixed Use
-  TN-C - Traditional Neighborhood Corridor
-  DE - Downtown Edge
-  DG - Downtown General
-  DC - Downtown Core
-  CC - Corridor Commercial
-  RC - Reginal Center
-  LI - Light Industrial
-  HI - Heavy Industrial
-  Brownsville City Limits

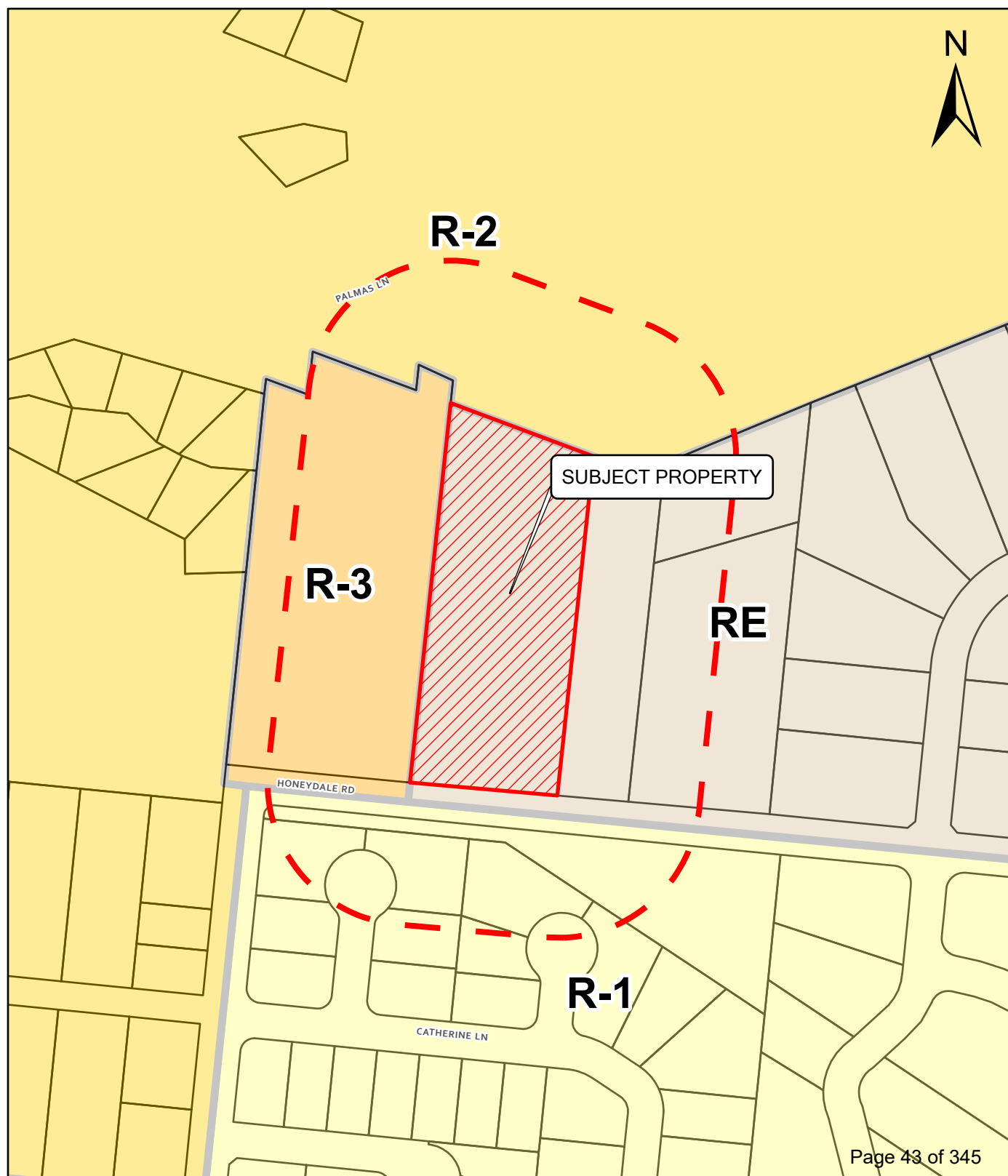
EXHIBIT "A"

Rezoning request:
Case # 235-2023-029

Current Zoning:
RE, Residential Estate

Proposed Zoning:
R-3, Residential Transition

Brownsville Electoral District #4





FUTURE LAND USE PLAN

DISTRICTS

- Core Central
- Core East
- Core West
- Downtown Enterprise
- Downtown Riverside
- Emerging City Central
- Emerging City East
- Emerging City West
- Employment Hub
- Future Employment Hub
- Reserve Future City
- Transition Central
- Transition East
- Transition West
- Water Management

NODES

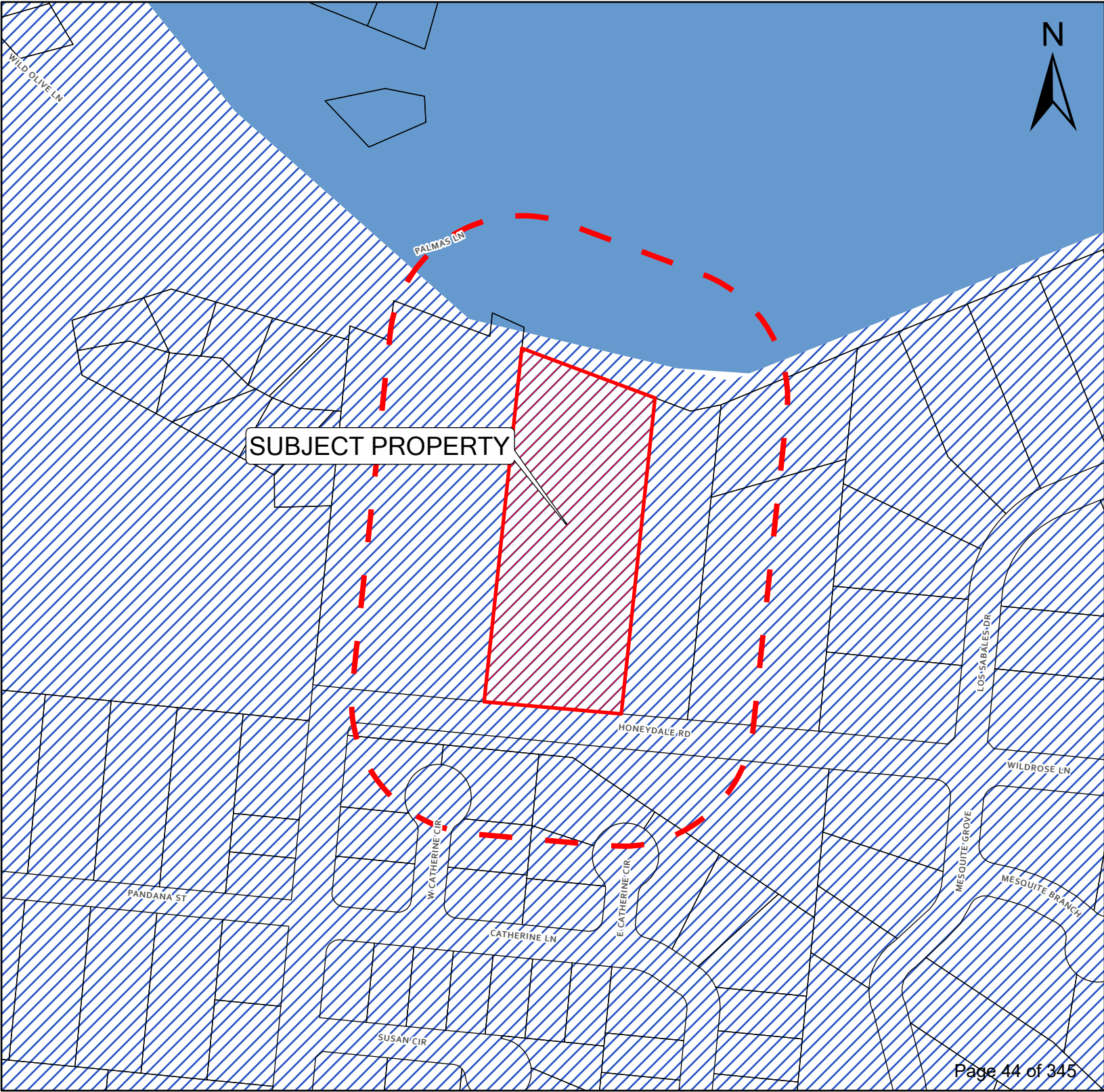
- Downtown Node
- Primary Regional Node
- Secondary Regional Node
- Sub Regional Node

CORRIDORS

- Gateway Corridor
- Linkage Corridor
- Loop Corridor
- Town Corridor

Brownsville City Limits

Zoning Case No.
235-2023-029





To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Martin Vega, Senior Planner
Date: Tuesday, November 7, 2023
Agenda #: **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-030**, to rezone Residential Estate (RE) to Commercial Corridor (CC) to allow an administrative office for an electric business, Lot 10, Jose Almaraz Subdivision, Cameron County, Texas, located at 1420 West Alton Gloor Boulevard, Brownsville, Texas 78520, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)

Summary:

Property owner, Jesus Lopez, proposes to change the Zoning Designation for Lot 10, Jose Almaraz Subdivision, Cameron County, Texas, located at 1420 West Alton Gloor Boulevard, Brownsville, Texas 78520. The applicant requests to rezone the subject property from Residential Estate (RE) to Commercial Corridor (CC) for the purpose of using an existing structure as an administrative office for an electrical business.

The predominant land use in the surrounding area is single-family dwelling. Additional uses, such as undeveloped land and commercial business are also present within proximity of the subject property.

The property is located within the Town Corridor. The proposed use/zoning designation is consistent with the Future Land Use Map.

Project Scope and Analysis:

The subject property currently harbors an existing structure that used to operate as an electrical service business. After years of not operating, the owner wishes to reopen the administrative operations of the business on this property. At this time, the existing structure will be used as is without making alterations to the current footprint. It is important to point out that if an expansion were to ever be proposed, residential adjacency requirements would apply (40' setback, 6' masonry wall, and maximum structure height of 20'). In summary, to accommodate the proposed use, the property must be rezoned to Commercial Corridor (CC) due to the current zoning (RE) only permitting single-family residential uses on large lots.

Staff finds that the requested zoning reclassification is adequate and would fit into the character of the surrounding development.

Funding:

Source: Fiscal Dept. Approval Not Required

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

There was verbal opposition at the Planning and Zoning Commission meeting on October 5, 2023. Presented concerns were related to flood mitigation. The Planning and Zoning Commission approved this rezoning from Residential Estate (RE) to Commercial Corridor (CC).

The item was approved by City Commission at 1st Reading on October 17th, 2023.

Commission Pillar:

Planning & Redevelopment

Attachments:

1. Binder 235-2023-030

STAFF REPORT

Planning & Redevelopment Department
Zoning Division
1034 E. Levee St. 2nd Floor
Brownsville, TX 78520
(956) 548-6150



APPLICATION DETAILS

Applicant/Representative: Jesus Lopez	Geo ID: 75-7985-0000-0100-00
Property Address: 1420 West Alton Gloor Boulevard	Case No.: 235-2023-030
Application Type: Rezone	Proposed Use: Administrative Office for Electrical Business
Current Zoning: Residential Estate (RE)	Proposed Zoning: Commercial Corridor (CC)
Application Date: September 8, 2023	P&Z Date: October 5, 2023
CC Meeting Dates: 1 st – October 17, 2023/ 2 nd – November 7, 2023	Electoral District: 4
Overlay(s): N/A	Annexation Year: 1995
No. of Mail-outs: 18	Opposition: No Verbal or Written Opposition

PROPERTY DETAILS

Legal Description: Lot 10, Jose Almaraz Subdivision, Cameron County, Texas, located at 1420 West Alton Gloor Boulevard, Brownsville, Texas 78520.

Roadway Frontage: The subject property is fronting West Alton Gloor, a Primary Arterial.

Predominant Land Use: The predominant land use within the area is Single-Family Dwelling.

ABUTTING LAND USES (SEE ATTACHED AERIAL VIEW MAP)

North: Undeveloped Land and Single-Family Dwelling

East: Commercial Business and Single-Family Dwelling

South: Undeveloped Land and Single-Family Dwelling

West: Single-Family Dwelling and Commercial Business

EXISTING ZONING DESIGNATIONS (SEE ATTACHED ZONING MAP)

North: Residential Estate (RE) and Residential Single-Family (R-1)

East: Residential Estate (RE), Residential Transition (R-3), and Commercial Corridor (CC)

South: Residential Single-Family (R-1)

West: Residential Estate (RE) and Commercial Corridor (CC)

FUTURE LAND USE PLAN (SEE ATTACHED FUTURE LAND USE MAP)

The City of Brownsville Future Land Use Plan indicates that the subject land is located within the Town Corridor. Land uses in the Town Corridor primarily residential, with small clusters of commercial land uses. Residential land uses should be primarily single-family with attached townhomes and some larger lots with an average density of 3 dwelling units per acre. It is the opinion of staff that the request is consistent with the Future Land Use Plan.

REVIEW CRITERIA

After an analysis of the subject property and surrounding area, it is the opinion of staff that the proposed zoning/use would generally be compatible with surrounding uses and would not create significant or burdensome demands on public facilities such as water, wastewater, and transportation. In general, the proposed zoning/use would fit into the character of the neighborhood without having adverse impacts on the area.

STAFF RECOMMENDATION

Based upon the analysis presented in this report and based on observations from the Planning and Redevelopment Department, staff recommends approval of the zoning request from Residential Estate (RE) to Commercial Corridor (CC).

ORDINANCE NUMBER 235-2023-030

AN ORDINANCE AMENDING THE “CITY ZONING ORDINANCE” BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING \$2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City’s comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the “City Zoning Ordinance” by amending the Official Zoning Atlas so to rezone from Residential Estate (RE) to Commercial Corridor (CC) to allow an administrative office for an electric business, Lot 10, Jose Almaraz Subdivision, Cameron County, Texas, located at 1420 West Alton Gloor Boulevard, Brownsville, Texas 78520, as shown in Exhibit “A”; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

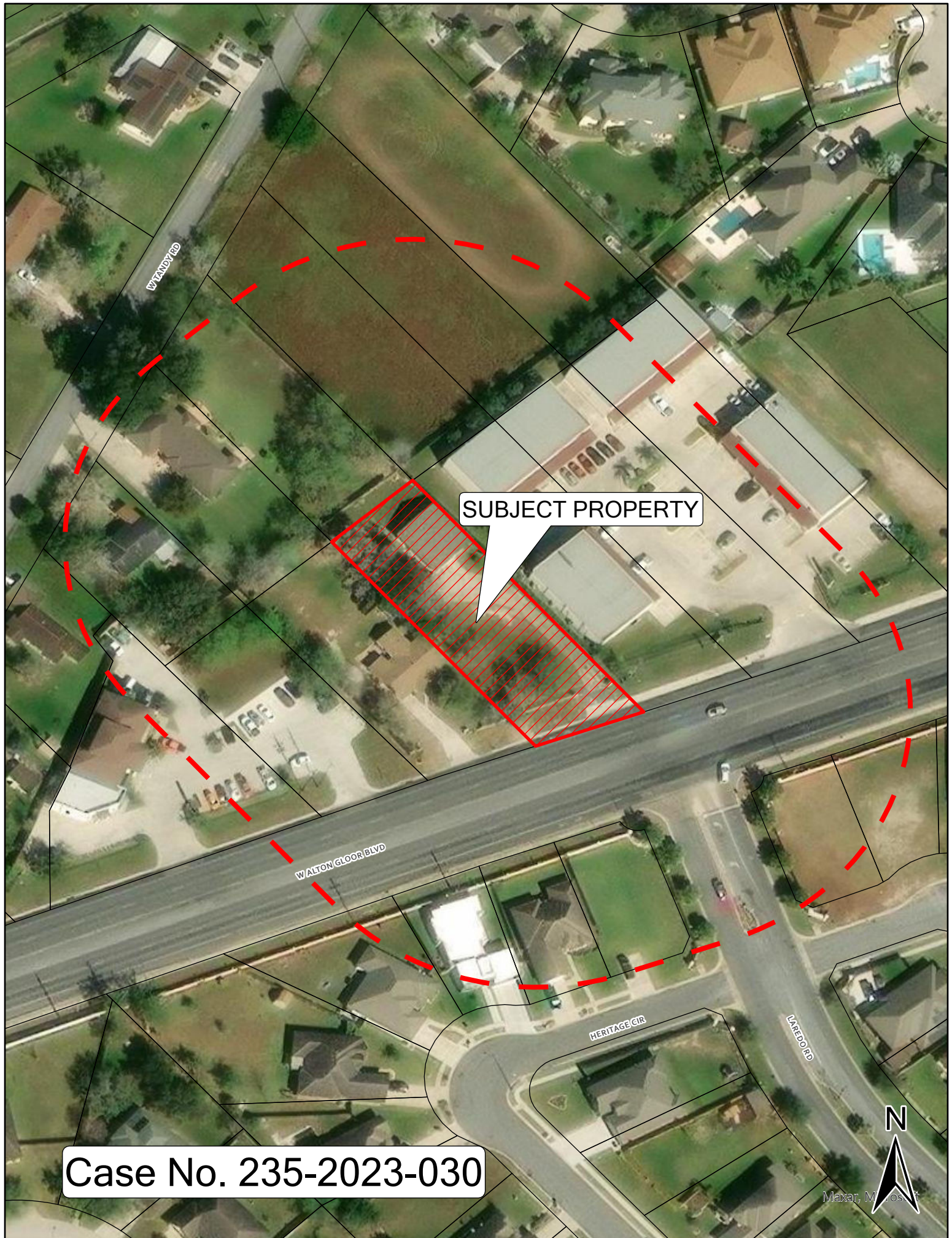
Section 2. That all provisions of the City of Brownsville Unified Development Code are incorporated herein by reference and declared to be a part hereof; and that this ordinance shall become effective on the earliest date allowed by law.

INTRODUCED at a public hearing on **October 17, 2023**. Passed at First Reading on **October 17, 2023**. PASSED at Second and Final Reading and ADOPTED, APPROVED, and ENACTED on **November 7, 2023**.

(SEAL)

BY: _____
John Cowen Jr.
Mayor

ATTEST: _____
Yolanda Galarza-Gomez
City Secretary



SUBJECT PROPERTY

WALTON GLOOR BLVD

HERITAGE CIR

LAREDO RD

Case No. 235-2023-030



Maxar, Inc.



City of Brownsville Zoning Map

Zoning Districts

-  AG - Agricultural
-  RE - Residential Estate
-  R-1 - Residential Single Family
-  R-2 - Residential Suburban
-  R-3 - Residential Transition
-  TN - Traditional Neighborhood
-  TN-MU - Traditional Neighborhood Mixed Use
-  TN-C - Traditional Neighborhood Corridor
-  DE - Downtown Edge
-  DG - Downtown General
-  DC - Downtown Core
-  CC - Corridor Commercial
-  RC - Reginal Center
-  LI - Light Industrial
-  HI - Heavy Industrial
-  Brownsville City Limits

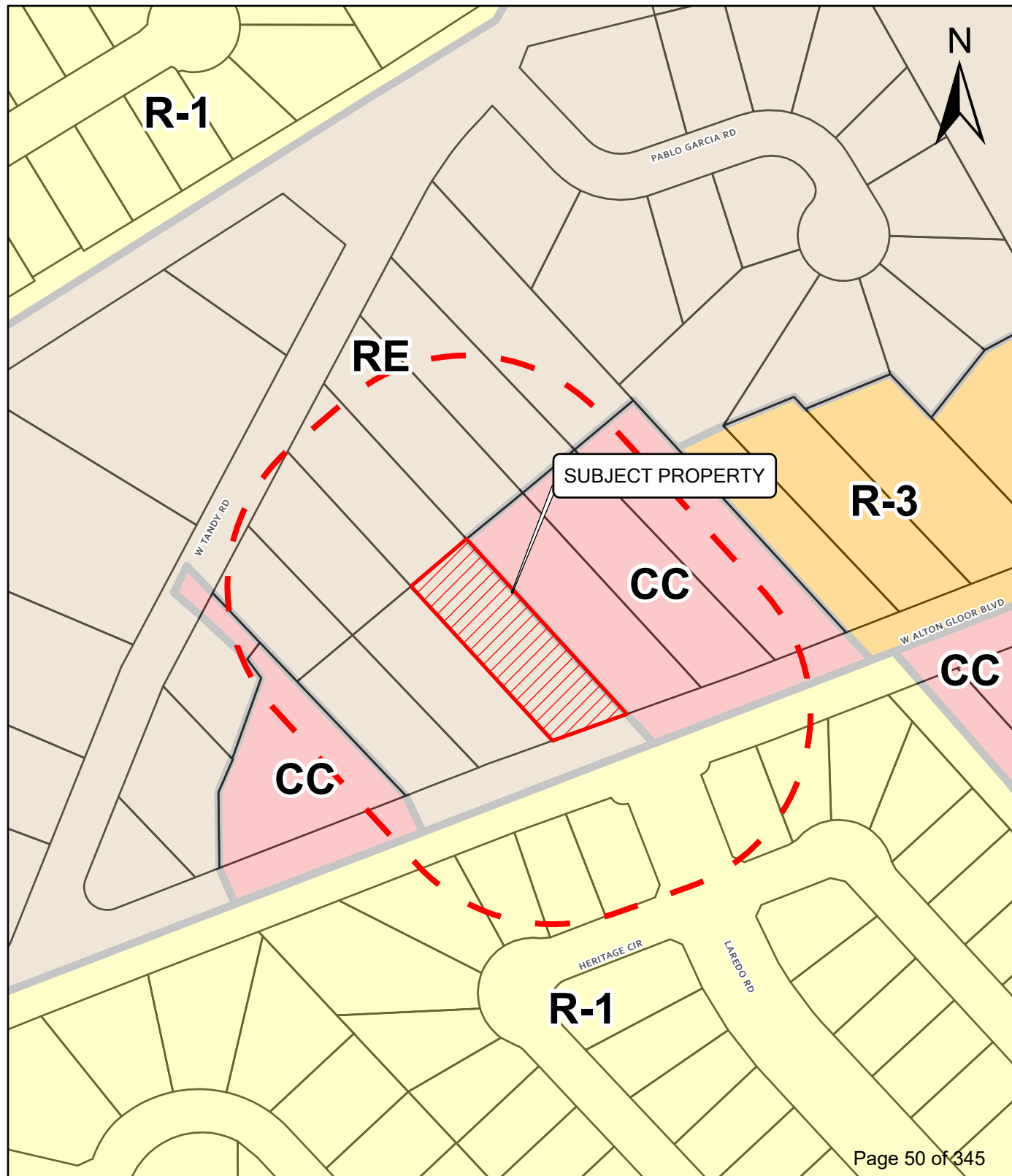
EXHIBIT "A"

Rezoning request:
Case # 235-2023-030

Current Zoning:
RE, Residential Estate

Proposed Zoning:
CC, Commercial Corridor

Brownsville Electoral District #4





FUTURE LAND USE PLAN

DISTRICTS

- Core Central
- Core East
- Core West
- Downtown Enterprise
- Downtown Riverside
- Emerging City Central
- Emerging City East
- Emerging City West
- Employment Hub
- Future Employment Hub
- Reserve Future City
- Transition Central
- Transition East
- Transition West
- Water Management

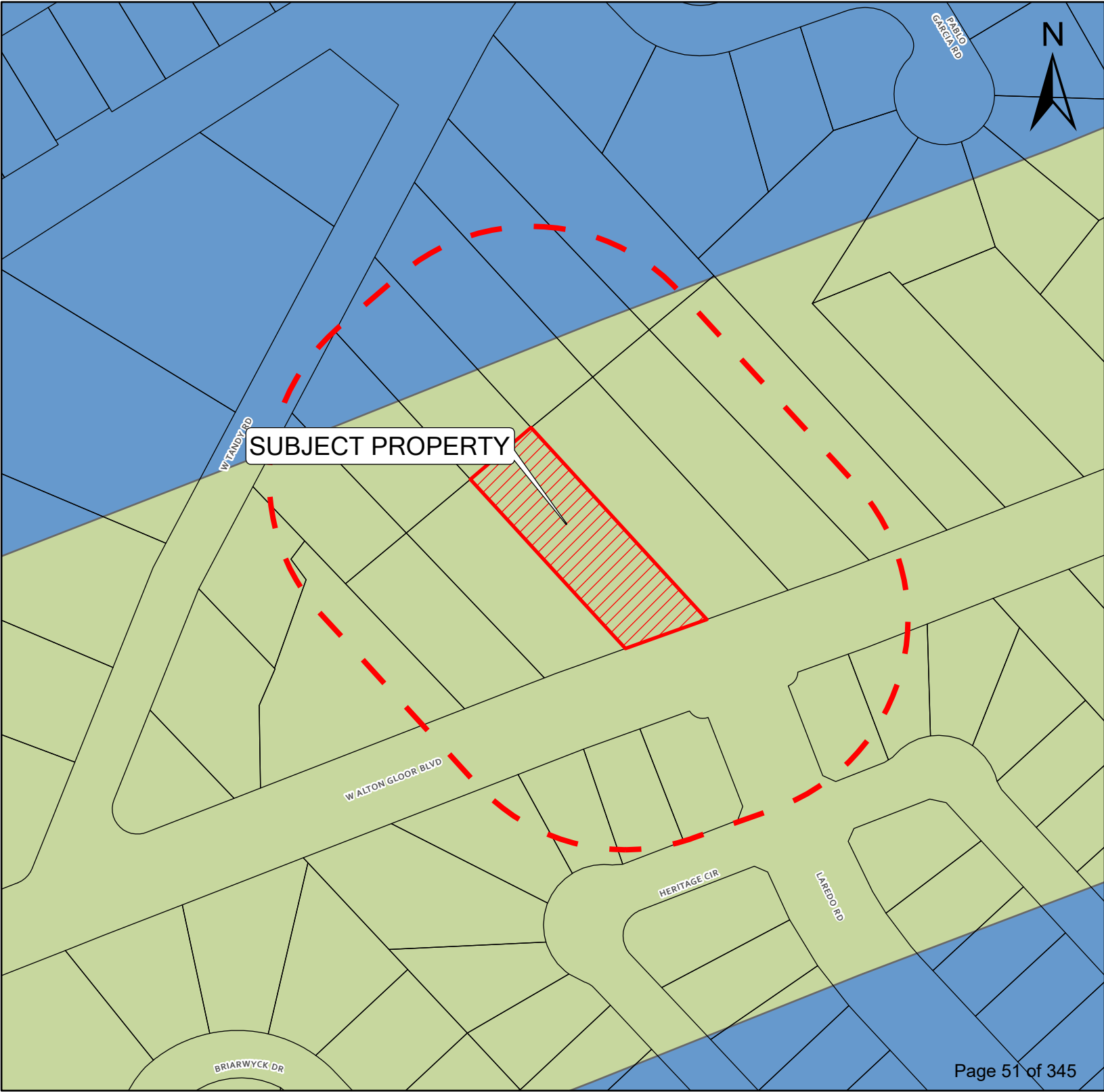
NODES

- Downtown Node
- Primary Regional Node
- Secondary Regional Node
- Sub Regional Node

CORRIDORS

- Gateway Corridor
- Linkage Corridor
- Loop Corridor
- Town Corridor
- Brownsville City Limits

Zoning Case No.
235-2023-030





To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Martin Vega, Senior Planner
Date: Tuesday, November 7, 2023
Agenda #: **APPROVAL on SECOND and FINAL READING on Ordinance Number 235-2023-031**, to rezone from Agriculture (AG) to Residential Single-Family (R-1) to allow a Single-Family Development for a 21.64-acre tract, more or less, out of a 568.83-acre tract, Espiritu Santo Grant, Share 14, Cameron County, Texas, located at Summerhill Boulevard, Olmito, Texas 78575, as shown in Exhibit "A". (District 4) (Planning & Redevelopment Department)

Summary:

Property owner, Olmito Development, LLC., proposes to change the Zoning Designation for a 21.64-acre tract, more or less, out of a 568.83-acre tract, Espiritu Santo Grant, Share 14, Cameron County, Texas, located at Summerhill Boulevard, Olmito, Texas 78575. The applicant requests to rezone the subject property from Agricultural (AG) to Residential Single-Family (R-1) to allow a single-family residential development.

The predominant land use in the surrounding area is single-family dwelling. Additional uses, such as undeveloped land, are also present within the vicinity.

The property is located within the West Emerging District. The proposed use/zoning designation is consistent with the Future Land Use Map.

Project Scope and Analysis:

The subject property has an approximate area of 21.64 acres and will be site to Section 3 of Summer Lakes Subdivision. Within this residential development, the applicant is proposing 87 single-family lots ranging in size from 6,000 square feet to 20,000 square feet. To comply with the required minimum lot size, the property must be rezoned from Agriculture (AG), which requires a minimum lot size of 40,000 square feet, to Residential Single-Family (R-1), which requires a minimum lot size of 5,000 square feet.

Funding:

Source: Fiscal Dept. Approval Not Required

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

There was no written or verbal opposition at the Planning and Zoning Commission meeting on October 5, 2023. The Planning and Zoning Commission approved this rezoning from Agriculture (AG) to Residential Single-Family (R-1).

The item was approved by City Commission at 1st Reading on October 17th, 2023.

Commission Pillar:

Planning & Redevelopment

Attachments:

1. Binder 235-2023-031

STAFF REPORT

Planning & Redevelopment Department
Zoning Division
1034 E. Levee St. 2nd Floor
Brownsville, TX 78520
(956) 548-6150



APPLICATION DETAILS

Applicant/Representative: Olmito Development LLC.

Property Address: Summerhill Boulevard

Application Type: Rezone

Current Zoning: Agricultural (AG)

Application Date: September 7, 2023

CC Meeting Dates: 1st – October 17, 2023/ 2nd – November 7, 2023

Overlay(s): N/A

No. of Mail-outs: 18

Geo ID: 79-1410-0060-0000-00

Case No.: 235-2023-031

Proposed Use: Single-Family Development

Proposed Zoning: Residential Single-Family (R-1)

P&Z Date: October 5, 2023

Electoral District: 4

Annexation Year: 2005

Opposition: No Verbal or Written Opposition

PROPERTY DETAILS

Legal Description: 21.64-acre tract, more or less, out of a 568.83-acre tract, Espiritu Santo Grant, Share 14, Cameron County, Texas, located at Summerhill Boulevard, Olmito, Texas 78575.

Roadway Frontage: The subject property is fronting Summerhill Boulevard, a Collector.

Predominant Land Use: The predominant land use within the area is Single-Family Dwelling.

ABUTTING LAND USES (SEE ATTACHED AERIAL VIEW MAP)

North: Undeveloped Land and Single-Family Dwelling

East: Undeveloped Land

South: Undeveloped Land

West: Undeveloped Land and Single-Family Dwelling

EXISTING ZONING DESIGNATIONS (SEE ATTACHED ZONING MAP)

North: Residential Single-Family Dwelling (R-1) and Extraterrestrial Jurisdiction (ETJ)

East: Residential Single-Family Dwelling (R-1)

South: Agricultural (AG)

West: Residential Single-Family Dwelling (R-1) and Extraterrestrial Jurisdiction (ETJ)

FUTURE LAND USE PLAN (SEE ATTACHED FUTURE LAND USE MAP)

The City of Brownsville Future Land Use Plan indicates that the subject land is located within the West Emerging District. The West Emerging District should be predominantly residential with supporting community facilities and institutional uses and small amounts of commercial and industrial uses. The average density of residential uses should be 1 dwelling unit per acre and consist of single-family homes on large lots and agricultural/ ranch properties. It is the opinion of staff that the request is consistent with the Future Land Use Plan.

REVIEW CRITERIA

After an analysis of the subject property and surrounding area, it is the opinion of staff that the proposed zoning/use would generally be compatible with surrounding uses and would not create significant or burdensome demands on public facilities such as water, wastewater, and transportation. In general, the proposed zoning/use would fit into the character of the neighborhood without having adverse impacts on the area.

STAFF RECOMMENDATION

Based upon the analysis presented in this report and based on observations from the Planning and Redevelopment Department, staff recommends approval of the zoning request from Agricultural (AG) to Residential Single-Family (R-1).

ORDINANCE NUMBER 235-2023-031

AN ORDINANCE AMENDING THE “CITY ZONING ORDINANCE” BY AMENDING THE OFFICIAL ZONING ATLAS; AND DEALING WITH RELATED MATTERS INCLUDING \$2000 PENALTIES.

WHEREAS, this ordinance is in accordance with the City’s comprehensive plan; is consistent with the existing zoning surrounding the area to be rezoned; and bears a substantial relationship to the public health, safety, morals or general welfare; and all procedural requirements for the passage hereof have been met;

Be It Ordained by the City of Brownsville:

Section 1. That the City Commission of the City of Brownsville, Texas, hereby amends the “City Zoning Ordinance” by amending the Official Zoning Atlas so to rezone from Agriculture (AG) to Residential Single-Family (R-1) to allow a Single-Family Development for a 21.64-acre tract, more or less, out of a 568.83 acre tract, Espiritu Santo Grant, Share 14, Cameron County, Texas, located at Summerhill Boulevard, Olmito, Texas 78575, as shown in Exhibit “A”; the area rezoned by this amendment being situated entirely within the corporate limits of Brownsville, Cameron County, Texas.

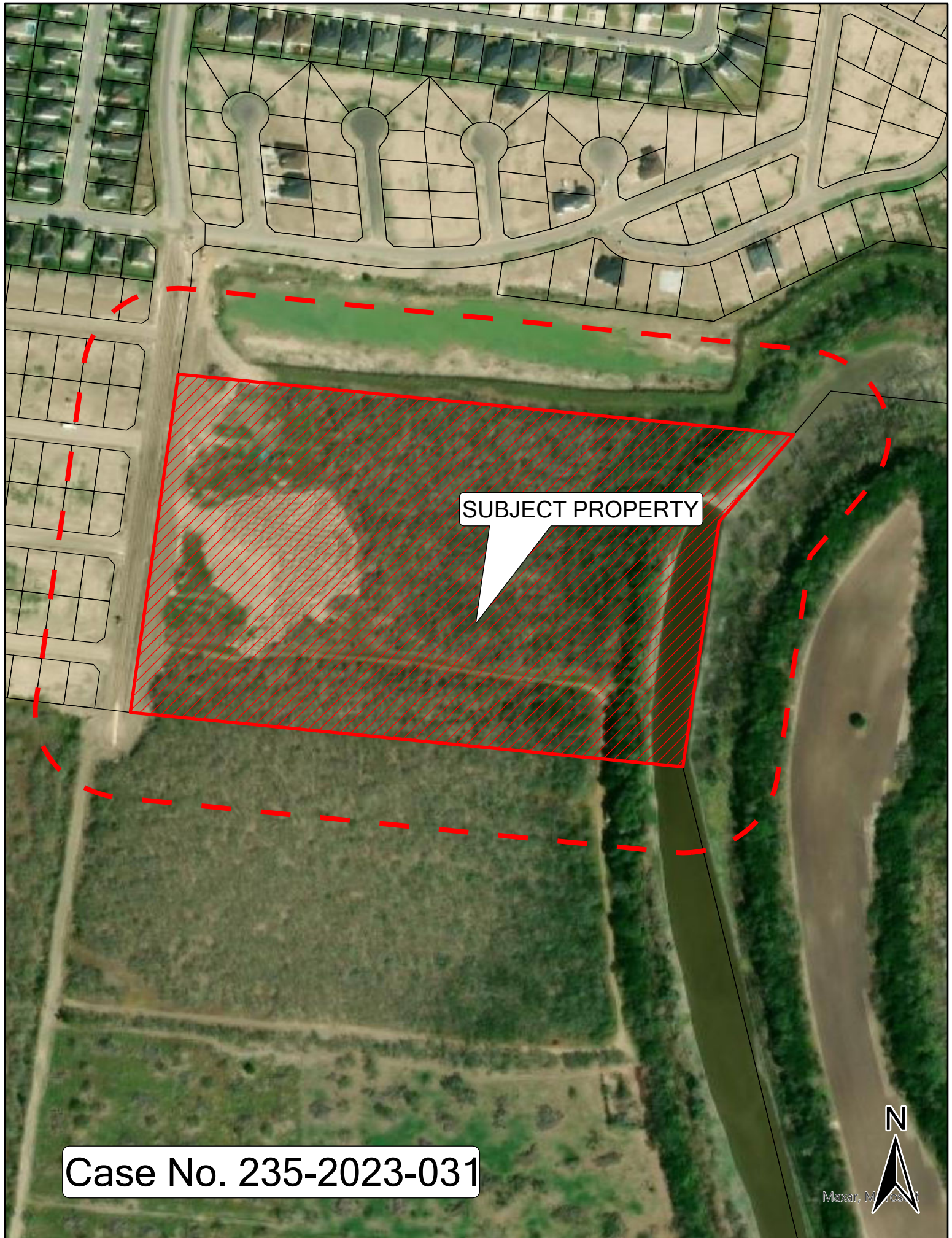
Section 2. That all provisions of the City of Brownsville Unified Development Code are incorporated herein by reference and declared to be a part hereof; and that this ordinance shall become effective on the earliest date allowed by law.

INTRODUCED at a public hearing on **October 17, 2023**. Passed at First Reading on **October 17, 2023**. PASSED at Second and Final Reading and ADOPTED, APPROVED, and ENACTED on **November 7, 2023**.

(SEAL)

BY: _____
John Cowen Jr.
Mayor

ATTEST: _____
Yolanda Galarza-Gomez
City Secretary



SUBJECT PROPERTY

Case No. 235-2023-031





City of Brownsville Zoning Map

Zoning Districts

-  AG - Agricultural
-  RE - Residential Estate
-  R-1 - Residential Single Family
-  R-2 - Residential Suburban
-  R-3 - Residential Transition
-  TN - Traditional Neighborhood
-  TN-MU - Traditional Neighborhood Mixed Use
-  TN-C - Traditional Neighborhood Corridor
-  DE - Downtown Edge
-  DG - Downtown General
-  DC - Downtown Core
-  CC - Corridor Commercial
-  RC - Reginal Center
-  LI - Light Industrial
-  HI - Heavy Industrial
-  Brownsville City Limits

EXHIBIT "A"

Rezoning request:
Case # 235-2023-031

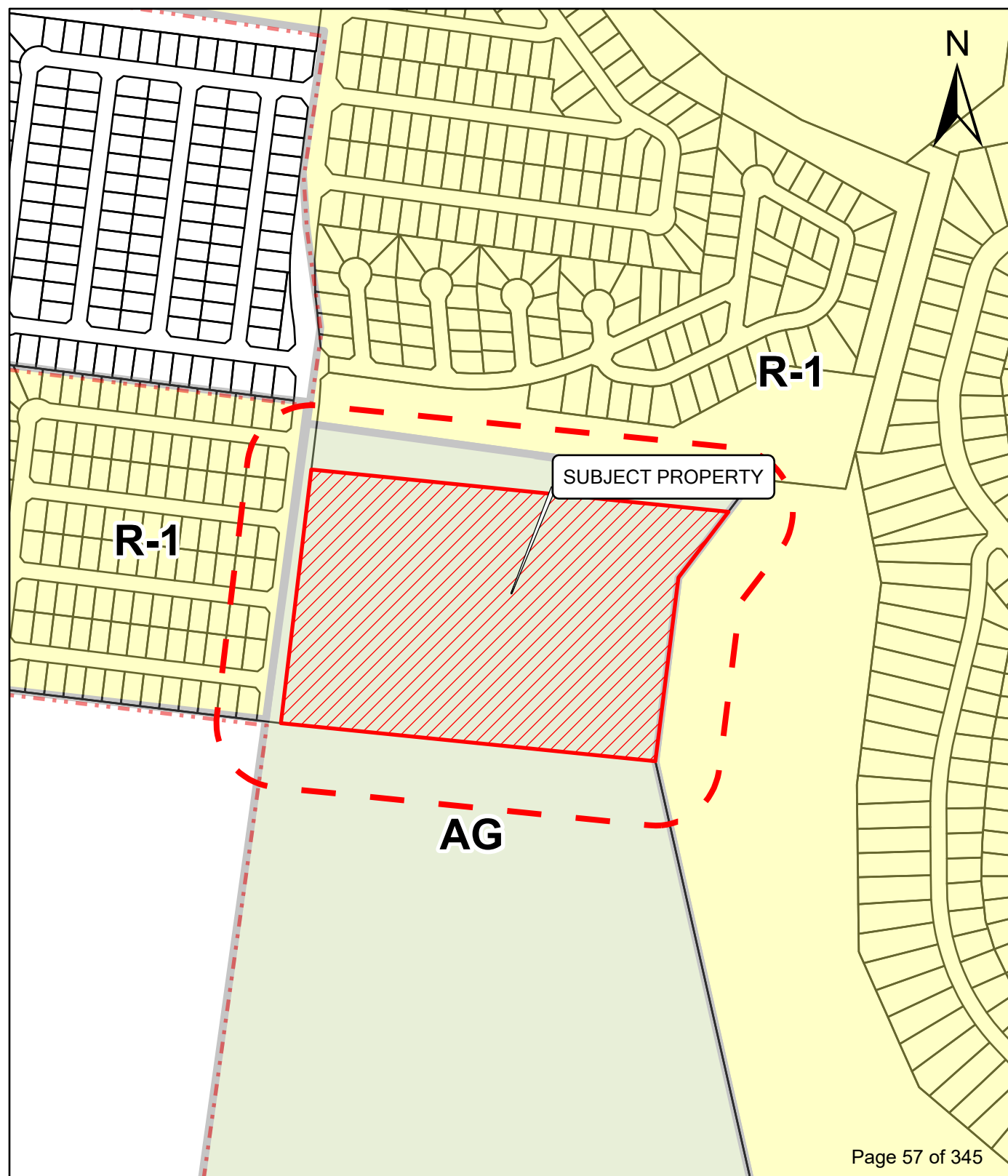
Current Zoning:

AG, Agricultural

Proposed Zoning:

R-1, Residential Single Family

Brownsville Electoral District #4





FUTURE LAND USE PLAN

DISTRICTS

- Core Central
- Core East
- Core West
- Downtown Enterprise
- Downtown Riverside
- Emerging City Central
- Emerging City East
- Emerging City West
- Employment Hub
- Future Employment Hub
- Reserve Future City
- Transition Central
- Transition East
- Transition West
- Water Management

NODES

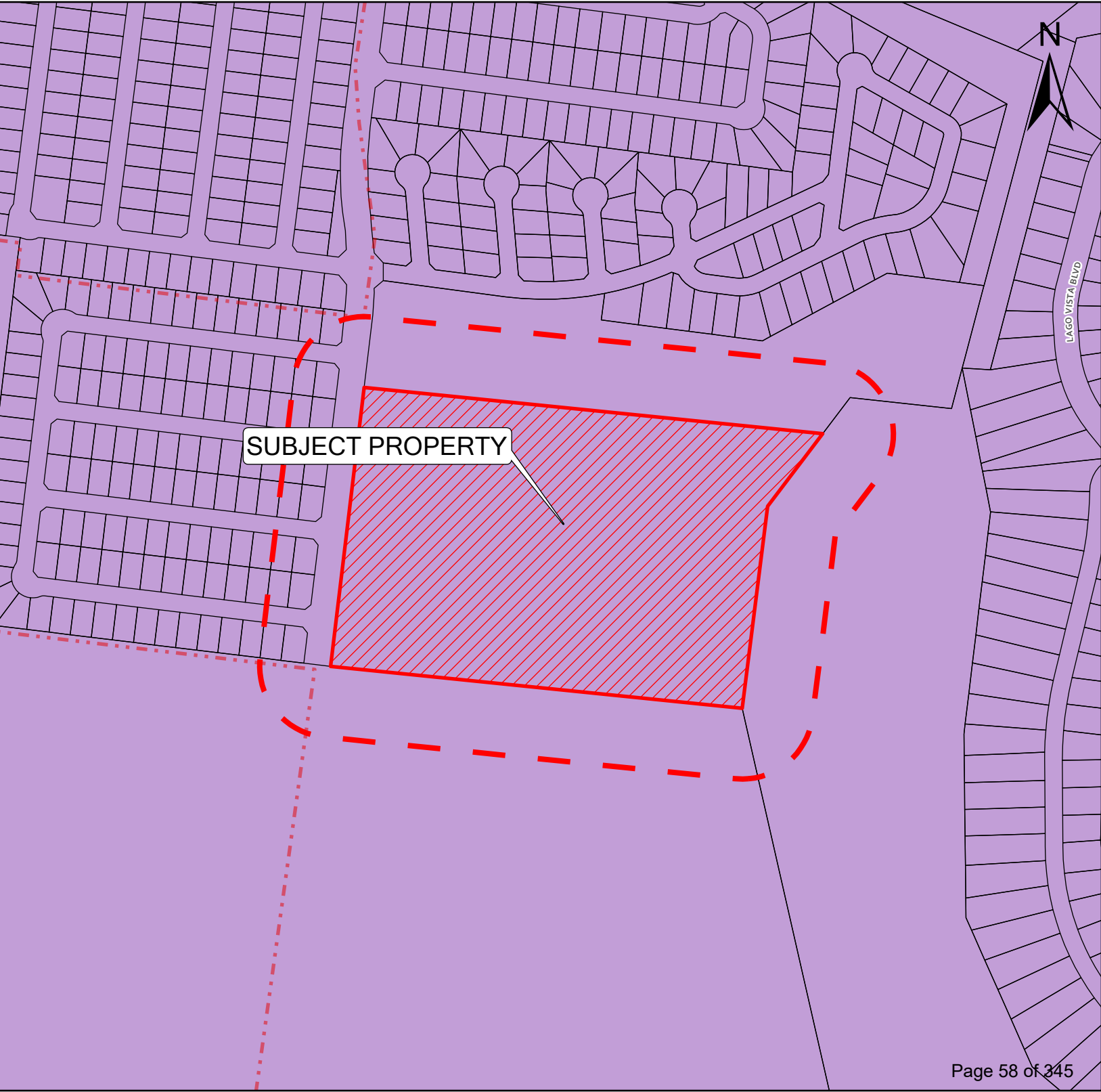
- Downtown Node
- Primary Regional Node
- Secondary Regional Node
- Sub Regional Node

CORRIDORS

- Gateway Corridor
- Linkage Corridor
- Loop Corridor
- Town Corridor

Brownsville City Limits

Zoning Case No.
235-2023-031





To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Will Trevino, First Assistant City Attorney
Date: Tuesday, November 7, 2023
Agenda #: **APPROVAL on SECOND and FINAL READING on Ordinance Number 2023-1724** adopting City Board Policies. (Office of the City Attorney)

Summary:

At the City Commission meeting on July 11, 2023, concerns were addressed regarding outdated board and commission appointments and governance policies. The attached ordinance serves to codify and update the policies based on the direction given by the City Commission. The City Commission held its first reading on August 1, 2023, and offered additional guidance to staff. Afterward, the board attorney for Brownsville Public Utilities Board offered comments as well.

This ordinance will codify and adopt board policies citywide.

Project Scope and Analysis:

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

City Commission held a public hearing and approved a first reading on Tuesday, August 1st, and final adoption will occur on Tuesday, November 7th.

Commission Pillar:

Governance

Attachments:

1. Ord__ Adopting City Boards Policies v5 redline

2. Ord__ Adopting City Boards Policies v5 clean

**CITY OF BROWNSVILLE
ORDINANCE NO. 2023-1724**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, AMENDING CHAPTER 2, “ADMINISTRATION”, ARTICLE IV, “BOARDS, COMMITTEES, COMMISSIONS”, DIVISION 1, “GENERALLY” OF THE CODE OF ORDINANCES, CITY OF BROWNSVILLE, TEXAS, TO ADOPT SECTION 2-311 THROUGH SECTION 2-322, TO BE TITLED CITY BOARD POLICIES; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brownsville, Texas (the “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City is authorized by Texas Local Government Code §51.001 to adopt or amend any ordinance that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

WHEREAS, the City Commission of the City has previously enacted ordinances and resolutions creating various boards, commissions, task forces, and committees (“City Boards”); and

WHEREAS, these City Boards advise the City Commission on matters related to City policies, planning and programming, and/ or fulfilling statutory responsibilities of the City; and

WHEREAS, the City Commission now deems it advisable and necessary to update the City Board policies and codify the aforementioned policies into the City’s Code of Ordinances, thereby regulating the operation of and appointment to the City’s various boards, commissions, task forces, and committees; and

WHEREAS, the City Commission deems it necessary, expedient, and in the best interest of the City to adopt the below revisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendments. Chapter 2, “Administration”, Article IV, “Boards, Committees, Commissions”, Division 1, “Generally” of the Code of Ordinances, is hereby amended to adopt section 2-311 through section 2-322, to be titled “City Board Policies”, to read entirely as follows:

Chapter 2 – ADMINISTRATION

ARTICLE IV. - BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. - GENERALLY

Secs. 2-311.- Purpose.

To encourage qualified individuals to serve on city boards, to increase the information available to the public regarding service on city boards, and to make the commission aware of qualified individuals who may be willing to serve on city boards. The City Commission recognizes that the ~~City~~city is best served by boards and advisory bodies that reflect the geographic distribution and diversity of the community they serve. The Commission also recognizes that the needs of the ~~City~~city and the agencies are best met when qualified candidates are matched to the boards' individual requirements.

Secs. 2-312.- Applicability.

These rules shall generally apply as follows:

This division shall apply generally to all city boards with the exception that, in the case of a conflict between this division and state law, or the city charter, state law or the city charter shall prevail.

The procedures relating to the Commission's appointment of board members shall apply to all ~~City~~city ~~Boards~~boards, including the Brownsville ~~Public~~Utilities Board (BPUB), the ~~Greater Brownsville Incentives Corporation~~ (GBIC), a Type-A corporation, and the ~~Brownsville Community Improvement Corporation~~ (BCIC), a Type-B corporation.

In the event of a conflict, between this division and any bylaw provision of any internal city board (~~but not the Brownsville Public Utilities Board,~~) this division shall control.

If any provision of this division is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this division shall remain in full force and effect.

Secs. 2-313. – Definitions.

The following words shall have the meanings ascribed to them by this section:

(a) ADVISORY BOARD(~~S~~) means a City Board that exists to provide the City Commission advice on the subject matter assigned to the board by the Commission or by statute. An advisory board shall provide advice through ~~its annual~~reports to the City Commission, unless another method is established by statute, ~~City-city Charter~~charter, ordinance, resolution, or minute entry. Because such boards are solely advisory in nature, the City Commission has ultimate authority and can accept, reject, or amend such advice. Unless otherwise provided for by its enabling act, ADVISORY BOARDS are not subject to the Texas Open Meetings Act but must post notice of meetings pursuant to section 2-320, Meeting Procedures.

(b) BOARD or CITY BOARD means a board, committee, task force, or commission of the ~~City-city~~ which is established by statute, City Charter, ordinance, resolution, or minute entry.

(c) BOARD LIAISON means the city staff member assigned by the City Manager, or their designee, to work and provide support to the board. The board liaison's role is to:

a. Prepare meeting agendas, staff reports for the City Board, and supporting information for agenda items to for the City Board prior to meetings.

b. Conduct roll call and take attendance at each meeting.

c. Perform quarterly audits on attendance.

a.—

b.d. Ensure compliance with the Texas Open Meetings Act and the Public Information Act, where applicable.

e.e. Assist the City Board in Ppreparing board recommendations to the City Commission and make presentations to the City Commission on behalf of the City Board.

f. Respond to board member requests for information related to the business of the board.

d.g. Provide board training or assist in securing specialized training for the boards.

e.h. Except for quasi-judicial boards such as the Board of Adjustment and Building Standards Commission, Board members do not have authority over the work program of city staff. Rather, the liaison acts as an information resource and provides technical assistance. City Board members may not direct city staff in the performance of their commission-related activities, nor can they assign projects or direct the work of staff. A City Board may request staff assistance on various projects; however, the City Manager, or their designee, must approve all requests which that create a substantial demand for a work product.

f.i. When not in conflict with the City Charter or the bylaws of BPUB, GBIC, and BCIC, the director or chief executive officer (CEO) of these entities, or their designee, shall serve as that entity's Board Liaison to the Citycity. The remaining provisions of this subsection (c) do not apply to BPUB, GBIC, or BCIC.

(d) CHAIR means the presiding officer of a board, whether appointed by the City Commission or elected by the other members of the board. A Chair is a member of the City Board and maintains those powers granted to them under the City Board's bylaws.

(e) CITY VENDOR means any individual, corporation, or company that has contracted with the city for services or goods.

(e)(f) CONFLICTS OF INTEREST means the Texas Cconflicts of Interest-interest and transparency Lawlaws, V.T.C.A., and-codified as Local Government Code Section-Sections 145, 171,

176, and .001-et-seq., Government Code Chapters 553 and 2252 aimed at local officials' conflict of interest, including the City's Ethics Ordinance codified as Chapter 38 of the City's Code of Ordinances. Under the measure, if a local official (or his/her close relative) stands to gain a financial benefit from a matter pending before a public agency upon which the official serves, the person must publicly disclose his/her interest in such matters and then abstain from voting on it.

(f)(g) GOVERNMENTAL BODY means every deliberative body having rule or quasi-judicial power and classified as a department, agency, entity, or political subdivision of the Citycity. This includes BPUB, GBIC and BCIC.

(g)(h) MEETING means a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered during which the governmental body takes formal action.

(h)(i) MEMBER means a duly appointed member of a City Board.

(i)(j) REGULAR MEETING means a regularly scheduled meeting established by state statute, City Charter, ordinance, resolution, or minute entry and may be scheduled weekly, monthly, semimonthly, or quarterly, as the responsibilities of the board necessitate, at a location within a building open to the public.

(k) SPECIAL MEETING or SPECIAL CALLED MEETING means a meeting called by the chair at any time, or called by the chair upon the written request of two members comprising of at least a required number of members per the City Charter, ordinance, resolution, or City Board's bylaws of the City Board.

(j)(l) TASK FORCE means an ad hoc committee formed to carry out necessary charges or work on pressing issues. Unlike a commission or standing committee that has ongoing responsibilities, a task force is usually time-limited, focusing on specific goals.

Secs. 2-314. – Appointment Process for Board Appointment.

(a) Individual City Commission members make nominations to the full City Commission for the governing body's approval or disapproval. The City Commission will make every reasonable attempt to ensure that the geographical diversity of the different city districts is fairly represented on all City Boards. City Commission members may consider an individual's qualifications, willingness to serve, application information in selecting nominations for service, and any prior board service/attendance, as applicable.

- a. **Seven Member Boards.** For City Boards with seven members, Each City Commission member is responsible for making nominations for City Board places assigned to him or her, which corresponds to the City Commission member's place.

~~a.b. **Eight or More Member Boards**—Individual City Commission members make nominations to the full City Commission for the governing body's approval or disapproval. The City Commission will make every reasonable attempt to ensure that the geographical diversity of the different city districts are fairly represented on all boards. On all City Boards having six-eight or more appointed members, each City Commission member is responsible for making nominations for City Board places assigned to him or her, which corresponds to the City Commission member's place, such board shall consist of a board member from of the respective district; all other remaining positions may be selected from the qualified candidates as determined by the commissionCity Commission, unless state law, city charter, ordinance, or resolution requires otherwise. In the event there fails to be a qualified candidate from an individual district, the commission may, in their discretion, select a qualified candidate from an individual district, the commission may, in its discretion, select a qualified candidate from any other district or, if no residing requirement, from the entire number of qualified candidates regardless of the district they reside. City Commission members may consider an individual's qualifications, willingness to serve, application information in selecting nominations for service, and any prior board service/attendance, as applicable.~~

(b) The ~~Department Directors~~**Board Liaisons** shall promptly notify the City Secretary of any current or anticipated vacancies on city boards and committees. The members of the City Commission should also actively recruit candidates who wish to apply for service on City ~~boards~~ **Boards and committees**.

(c) The City Secretary shall post and advertise on the ~~City's city's~~ web page current and upcoming vacancies in city boards and committees. ~~All applicants shall complete an application packet containing and execute a conflict of interest statement before being considered for service on any city committee.~~ The City Secretary will gather all applications ~~which that~~ meet the minimum eligibility criteria set forth in this division, ~~or those found within the city charter, ordinance, or resolution,~~ and submit them to the City Commission. The applications will be considered to be on file and effective for one year. ~~The City Commission, during a posted public meeting, may only consider applicants whose completed applications are on file no less than 15 days prior to consideration for appointment to a board or committee.~~

(d) The members of the City Commission shall make their motions to appoint ~~from the names of~~ qualified candidates ~~who have a valid application on file and~~ who are eligible for a term on said board/committee. The City Commission may also, subject to each commissioner's right to make nominations, in its discretion, vote to consider other applicants who have completed applications and conflict of interest statements on file with the City Secretary's office who may have missed the application deadline.

~~(d)(e)~~ All appointed members shall complete an application packet containing and execute a conflict-of-interest statement before being sworn in to their position on a City Board.

Secs. 2-315. – Application Process Applicable to Mayoral Appointments.

Texas Law gives the Mayor of a municipality the unilateral authority to make certain appointments. ~~[TLGC Sec. 392.031]~~ The following procedure is advisory only. The Mayor should, any time he/she wishes to make an appointment, notify the City Secretary of the vacancy, who shall post and advertise on the ~~City's-city's~~ web page current and upcoming vacancies in applicable City Boards. Any interested applicant seeking an appointment should complete an application packet containing and execute a conflict of interest statement before being considered for a mayoral appointment for service on any City Board. The City Secretary will gather all applications which meet the minimum eligibility criteria set forth in this division and submit them to the Mayor and City Commissioners for review. The Mayor shall announce the name of the appointee at a City Commission meeting. Such a policy ensures that the Commissioners and the public are informed of who was appointed by the Mayor.

Secs. 2-316. – Eligibility Criteria.

(a) **Written Application.** A signed, current application form ~~is required~~may be submitted for consideration for service on a ~~board or committee~~City Board. Applications are considered current for one (1) year after the original submittal, after which the application will be removed from consideration. The applicant may reapply and submit a new application.

(b) **Residency.** Unless the authorizing ordinance or law creating or otherwise governing a board or committee specifically requires otherwise, appointees ~~should~~shall be residents of the City of Brownsville, Texas. However, the City Commission may also appoint an individual to a City Board if otherwise permitted by law, where that individual has established a business in Brownsville, provided significant civic or community service within Brownsville, or who has otherwise demonstrated prior significant willingness to serve the community in Brownsville, Texas. The same shall apply to appointments made for the ~~Greater Brownsville Incentives Corporation (GBIC-a Type-A corporation)~~ and the ~~Brownsville Community Improvement Board (BCIC-a Type-B corporation)~~ where permitted by state law.

(c) **Nepotism.** Pursuant to section 30, Nepotism, of the city charter, no person related within the second degree by affinity, or within the third degree by consanguinity, to the mayor or any of the commissioners, shall be appointed by the city commission, nor a person thus related to the city manager shall ever be appointed by him to any office, position, clerkship or service of the city.

(d) **Default to City.** No person shall be appointed a member of a board who is in default in the payment of any valid indebtedness or obligation due the City.

(ee) **Criminal Check.** No individual may serve on any ~~city-City board-Board or committee~~ who has a felony conviction from which the individual has not been pardoned or otherwise released from the resulting disabilities or who has, within the past ten years, been convicted of any crime of moral turpitude.

(df) **Vendors or Grantees.** No individual who is presently a ~~city-City vendor~~Vendor, or who presently owns a substantial interest in any company which is a city vendor, is eligible to sit on a ~~city-City board-Board~~ which contracts directly with that vendor. No individual who has obtained business incentives from a ~~city-City board~~Board, or individual who owns a substantial interest in any

company which has obtained business incentives from any ~~city-City board~~Board, may serve on that same ~~city-City board-Board or committee~~ within five years of receiving such incentives.

(g) **Pending Litigation or Claim.** No individual who has pending litigation or a claim against the City, including, but not limited to, mediation, arbitration, or any adverse proceeding, may serve on a City Board.

Secs. 2-317. – Number of Members, Term of Office, Attendance, and Multiple Service.

(a) **Number of Members.** Unless otherwise provided by state law, City Charter, or City Commission exception, all City Boards shall be composed of seven members.

(b) **Terms of Office.** All terms shall be two (2) years unless otherwise provided by state law or ordinance.

(bc) **Appointments.** Appointments shall be made quarterly, and appointments are effective when made. ~~, unless the~~An appointment ~~is made for filling a vacancy, in which case the appointment~~ shall be for the remainder of the term for the position filled. ~~The Commission can fill any unexpired term with an appointment from any qualified individual who has an application and conflict of interest waiver on file with the city secretary.~~

(ed) **Attendance.** A City Board member shall attend seventy-five percent (75%) of the regular meetings during a term to be considered for reappointment. Any Board member or committee member who has three consecutive unexcused absences from a regular meeting shall be automatically deemed to have resigned from his/her appointment with no further action by the City Commission. A special called meeting will not reset the three consecutive regular meetings. The following criteria are automatically excused absences: personal or family illness, death of a family member, jury duty, service in the armed forces, testifying before the legislature, attending a seminar involving municipal matters of importance to the member's duties, or an absence necessary for the member's business or employment. At the request of a member, the board a member serves on may also consider excusing an absence that does not fall within the criteria for automatically excused absences if approved by a majority vote of the members present. Such action must be taken at a posted meeting that is not more than two posted meetings from the absence and must be recorded in the minutes. If members at the time of this section's enactment have absences that meet the criteria for automatically excused absences, that member's absences shall be excused under this subsection (d). However, a member who has been deemed as vacated their position shall be considered a holdover member of that City Board until such time as the City Commission will fill the said vacancy by appointment.

(d) ~~**Term Limits.** The recommended limit for service on a City Board is two (2) consecutive two-year terms; however, the City Commission may appoint a member to a longer term of service if approved by a majority of the City Commission present at a meeting.~~

(ee) **Continued Service.** A City Board member is immediately eligible for all other City Boards upon completion of term limits on the current City Board.

(ff) **Multiple Service.** Except for City Board members serving as an alternate or a temporary appointment for a specific matter, no City Board member shall not serve concurrently on more than two City Boards as a Regular Member. If members at the time of this section's enactment are serving on more than two City Boards, they shall complete their current terms as provided by their appointments unless otherwise removed from a position in accordance with City Ordinance or state law.

(gg) **Family Service.** No spouses or individuals related within one degree of consanguinity or affinity may simultaneously serve on the same ~~city City board~~Board. Spouses and individuals related within one degree of consanguinity or affinity may serve on different ~~city City boards~~Boards provided they comply with any statutes or rules pertaining to conflict of interest. Pursuant to the City Charter, no person related within the second degree by affinity, or within the third degree by consanguinity, to a member of the City Commission, shall be appointed by the City Commission, nor a person thus related to the City Manager shall ever be appointed by him/her to any City Board.

(hh) **Removal.** The City Commission may remove any board member at any time, with or without cause, including but not limited to the failure to attend seventy-five percent (75%) of board meetings within a member's term or violating any provision of this Division. This shall not apply to Boards whose removal is governed by the city charter or state statute, in which case the city charter or state statute will control. The procedures relating to the removal of board members shall apply to all ~~city City boards~~Boards, including the GBIC and the BCIC, whose Board members serve at the will of the City Commission. The procedures relating to removal of board members shall not apply to the ~~Brownsville~~PUB as the provisions for the removal of ~~Brownsville~~ PUB Directors are established by City city Chartercharter.

Secs. 2-318. – Official Notification; Acceptance.

(a) After the City Commission appoints or reappoints a person to serve as a member of a ~~City board~~Board, the City Secretary, or Board Liaison, shall notify the person of the appointment or reappointment either through the U.S. mail or via e-mail. The notification from the City Secretary, or Board Liaison, shall ~~contain a form of request~~ acceptance of the appointment ~~to be returned to within 10 calendar days from the date of receiving notice of the appointment or reappointment the City Secretary by the appointee.~~ Board Members reappointed to City Boards ~~that are advisory in nature~~ will be notified ~~by letter~~ and will be asked to notify the City Secretary's office, or Board Liaison, if they decline the appointment. ~~Board members reappointed to City Boards that are more than advisory in nature must complete and return the "acceptance of appointment" form to the City Secretary.~~

(b) ~~The appointee must return the signed acceptance of appointment to the City Secretary within 10 calendar days from the date of receiving notice of the appointment or reappointment, as in the case of City Boards that are more than advisory in nature. If the City Secretary does not receive the signed acceptance of appointment within the required 10 days, then that board position shall be considered vacant and a new appointment made.~~

~~(e)~~(b) The appointee must take the required Open Government training and provide certificates of completion to the City Secretary within 90 days of the acceptance of an appointment, or

reappointment, or be shall be considered as having vacated their positions subject to removal by the City Commission.

(d)(c) The appointee must submit the required personal finance statement required by Chapter 38, Ethics Ordinance the City's Code of Ethics, and any additional form as required by state statutes. Failure to submit the required statement to the City Secretary's Office within 90 days of the acceptance of an appointment, or reappointment, shall be considered as having vacated their position.

(e)(d) The Board Liaison shall send A-a letter of gratitude shall be sent to on behalf of the City to each retiring member.

Secs. 2-319. – Oath of Office; Orientation and Training.

(a) Pursuant to the City-city Charter charter, City Board members are required to take one or more oaths of office. The corresponding Board Liaison is also responsible for ensuring all documents finalizing the appointment processes have been completed before allowing a member to participate in a meeting.

(b) City Board members are required to participate in training session(s) provided by the Citycity. These training sessions will be scheduled as a regular agenda item by the Board Liaison. Members are also required to complete open government training through the Texas Attorney General's Office. Upon completion of training, members must submit a completed certificate to the City Secretary or Board Liaisons.

(b)(c) Board Liaisons are encouraged shall to meet provide orientation with “new” appointees well in advance of the first meeting to provide a general overview of the board's responsibilities, agenda/meeting process, and any other issues relevant to the board, commission, or committee.

Secs. 2-320. – Meeting Procedures.

(a) Board meetings are governed by Robert's Rules of Order, and the board's bylaws or rules of procedure, and any applicable state statutes.

(b) Each Board shall adopt the City's-city's standard board bylaws. A bylaw amendment is not effective unless approved by the City Commission after review by the Office of the City Attorney.

(c) Boards may adopt special rules of procedure as required. A board's special rules of procedure may not conflict with state or federal law, the board's bylaws, or the City-city Charter charter and Code-code of Ordinancesordinances.

(d) Unless otherwise provided for by its enabling act, Advisory Boards are not subject to Texas Open Meetings Act (“TOMA”) quorum requirements but must post the agenda at least 72 hours before the stated meeting time. All other City Boards must comply with TOMA.

Secs. 2-321. – Nondiscrimination.

The ~~City-city of Brownsville~~ is committed to providing an inclusive and welcoming environment for all members of our community and to ensuring that board and committee appointments are based on individuals' abilities and qualifications. Consistent with this principle and applicable laws, it is, therefore, the ~~City's-city's~~ policy not to discriminate in making appointments to its boards and committees on the basis of race, color, gender, national origin, age, religion, creed, disability, veteran's status, sexual orientation, gender identity or gender expression. Such a policy ensures that only relevant factors are considered and that equitable and consistent standards of conduct and performance are applied.

Secs. 2-322. – Nonwaiver

This division is intended as a procedural guide for the City Commission and is not intended to establish any property right or procedural right as to any board appointment, which appointments are totally discretionary with the City Commission. The City Commission shall have the right to modify or change this division.

The right to make an appointment to any City Board is a discretionary right that belongs to the City Commission or, in several cases where required by statute, the Mayor. The City Commission does not, through the adoption of this division, abandon or cede any of its discretionary rights to make appointments.

This division is intended as a guide for the City Boards and shall not create any property right or right to procedural due process or due course of law under the constitutions of the State of Texas or the United States. The City Commission reserves the right to change or eliminate this procedure at any time it feels, at its discretion, if it no longer best serves the interests of the ~~Ccityity of Brownsville~~.

Section 3. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 4. Severability. Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Brownsville hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 5. Effective Date. Pursuant to the City Charter, this Ordinance shall become effective upon its second and final reading and passage. Members of City Boards who automatically vacated their position under the 2018 Board and Commission Policies, and were not removed by the City Commission and their position was not filled by another appointment, shall be reappointed to the remainder of their positions with that City Board.

Section 6. Open Meetings. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

Signature Page Follows

INTRODUCED and PASSED at a PUBLIC HEARING and FIRST READING on this the 1st day of August, 2023.

APPROVED AND PASSED on the SECOND and FINAL READING on this the ~~15th~~7th day of ~~August~~November, 2023.

John Cowen, Jr.
Mayor

ATTEST:

Yolanda Galarza-Gomez, TRMC
City Secretary

APPROVED AS TO FORM:

Guillermo (Will) S. Trevino
City Attorney

Exhibit "A"

TEMPLATE FOR STANDARD CITY BOARD BYLAWS

BYLAWS OF THE

(Board Name)

ARTICLE 1. NAME.

The name of the board is _____ *(board name as it appears in the City Code of Ordinances or other enabling act).*

ARTICLE 2. PURPOSE AND DUTIES.

The purpose of the board is _____. *(Insert the information directly from the City Code of Ordinances or other enabling act.)*

ARTICLE 3. MEMBERSHIP.

(A) The board is composed of _____ members appointed by the city commission.

(B) A member serves at the pleasure of the city commission.

(C) Board members serve for a term of _____ years beginning _____ on the year of appointment.

(D) An individual board member may not act in an official capacity except through the action of the board.

(E) A board member shall attend seventy-five percent (75%) of the regular meetings during a term. Any board member who has three consecutive unexcused absences from a regular meeting shall be automatically deemed to have resigned from his/her appointment with no further action by the City Commission. A special called meeting will not reset the three consecutive regular meetings. The following criteria are automatically excused absences: personal or family illness, death of a family member, jury duty, service in the armed forces, testifying before the legislature, attending a seminar involving municipal matters of importance to the member's duties, or an absence necessary for the

member's business or employment. At the request of a member, the board a member serves on may also consider excusing an absence that does not fall within the criteria for automatically excused absences if approved by a majority vote of the members present. Such action must be taken at a posted meeting that is not more than two posted meetings from the absence and must be recorded in the minutes. If members at the time of this section's enactment have absences that meet the criteria for automatically excused absences, that member's absences shall be excused under this subsection (d). However, a member who has been deemed as vacated their position shall be considered a holdover member of that City Board until such time as the City Commission will fill the said vacancy by appointment.

(F) At each meeting, the board liaison shall take roll call and record the attendance of each member.

(G) A member who seeks to resign from the board shall submit a written resignation to the chair of the board, the staff liaison, or the city secretary's office. If possible, the resignation should allow for a thirty-day notice so the city commission can appoint a replacement.

ARTICLE 4. OFFICERS.

(A) The officers of the board shall consist of a chair and a vice-chair *[or insert other name of officers]*.

(B) Officers shall be elected annually by a majority vote of the board at the first regular meeting of the calendar year. In the event a current officer becomes ineligible to serve as an officer, the board may hold an emergency election as needed.

(C) The term of office shall be _____ year, beginning _____ 1st and ending _____ 30th/31st. An officer may continue to serve until a successor is appointed.

(D) A member may not hold more than one office at a time.

ARTICLE 5. DUTIES OF OFFICERS.

(A) The chair shall preside at board meetings, represent the board at ceremonial functions and approve each final meeting agenda.

(B) In the absence of the chair, the vice-chair shall perform all duties of the chair.

ARTICLE 6. AGENDAS.

(A) Two or more board members may place an item on the agenda by oral or written request to the staff liaison at least five days before the meeting. After first consulting with and receiving input from the staff liaison, the chair shall approve each final meeting agenda. However, the chair shall not have the power to remove a duly requested item from the agenda.

(B) The board liaison shall submit the meeting agenda through the online agenda posting system for each meeting not less than 72 hours before the meeting.

(C) Posting of the agenda must comply with Texas Government Code Chapter 551 (Texas Open 38 Meetings Act).

ARTICLE 7. MEETINGS.

(A) The board meetings shall comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).

(B) Board meetings shall be governed by Robert's Rules of Order (or name other governing set of rules).

(C) The board may not conduct a closed meeting without the approval of the city attorney so long as the meeting is under an exception provided for by Chapter 551 of the Texas Government Code, the Texas Open Meetings Act.

(D) The board shall meet (select one of the following: monthly, quarterly, or when the board is legally required to meet in order to comply with a legal deadline.) In December (or such other time when the board regularly meets) of each year, the board shall adopt a schedule of the meetings for the upcoming year, including makeup meeting dates for the holidays and cancelled meetings.

(E) The chair may call a special meeting, and the chair shall call a special meeting if requested by two or more members. The call shall state the purpose of the meeting.

(F) _____ members constitute a quorum.

(G) If a quorum for a meeting does not convene within one-half hour of the posted time for the meeting, then the meeting may not be held. (delete for advisory boards)

(H) To be effective, a board action must be adopted by an affirmative vote of the number of members necessary to provide a quorum.

(I) The chair has the same voting privilege as any other member.

(J) The board shall allow citizens to address the board on agenda items and during a period of time set aside for citizen communications. The chair may limit a speaker to three minutes. Members of the board may suspend the rules to allow additional time to a speaker.

(K) The board liaison shall prepare the board minutes. The minutes of each board meeting must include the vote of each member on each item before the board and indicate whether a member is absent or failed to vote on an item.

(L) The city secretary, or board liaison, shall retain agendas, approved minutes, internal review reports and bylaws. The _____ (liaison's department name) shall retain all other board documents. The documents are public records under Texas Local Government Code Chapter 552 (Texas Public Information Act).

(M) The chair shall adjourn a meeting not later than _____ (10 p.m. or some other time), unless the board votes to continue the meeting.

(N) Each person and board member attending a board meeting should observe decorum pursuant to Section 2-26, Meetings and Agendas, of the City Code of Ordinances.

(O) A member of the public may not address a board at a meeting on an item posted as a briefing.

ARTICLE 8. COMMITTEES/WORKING GROUPS.

COMMITTEES

(A) The _____ (Name of the board) shall have the following committees:
(Name and describe the duties of each Committee.

If the board does not have any committees, use the following language):

(A) The _____ (Name of the board) will have no committees.

(B) Each committee must be established by an affirmative vote of the board. A committee cannot meet until its creation is approved by the City Commission. Each committee shall consist of at least three board members appointed by the chair. A staff member shall be assigned to each committee by the director of the _____ (department name).

(C) The board chair shall appoint a board member as the committee chair, with the member's consent.

(D) A majority of the total number of appointed committee members constitutes a quorum.

(E) Each committee shall meet on a regularly scheduled basis at least quarterly.

(F) Each committee shall make an annual report to the board at the January board meeting.

(G) Committee meetings must be posted in accordance with Texas Government Code Chapter 551 (Texas Open Meetings Act).

(H) At each committee meeting, a committee member shall sign in on a sheet provided and shall indicate that the member has no conflict of interest with any item on the committee meeting agenda, or identify each agenda item on which the member has a conflict of interest.

WORKING GROUPS

(A) The board can determine the size of a working group but the number of board members serving on the working group must be less than a quorum of the board.

(B) A working group may designate a chair, with the member's consent, but is not required to do so.

(C) Quorum requirements do not apply to working groups.

(D) Staff support will not be provided for working groups.

(E) Working groups are not required to post their meetings in accordance with the Texas Government Code Chapter 551 (Texas Open Meetings Act).

ARTICLE 9. PARLIAMENTARY AUTHORITY.

The rules contained in the current edition of Robert's Rules of Order (Or insert other governing set of rules) shall govern the board in all cases to which they are applicable, except when inconsistent with these bylaws or with special rules of procedure which the board or city commission may adopt.

ARTICLE 10. AMENDMENT OF BYLAWS.

A bylaw amendment is not effective unless approved by the [name of board] and City Commission.

The bylaws were approved by the _____ (insert - board name) at their meeting held on _____ (insert – month date, year).

(Signature of Executive or Staff Liaison) _____ (Insert – Title -- Executive or Staff Liaison)

**CITY OF BROWNSVILLE
ORDINANCE NO. 2023-1724**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, AMENDING CHAPTER 2, “ADMINISTRATION”, ARTICLE IV, “BOARDS, COMMITTEES, COMMISSIONS”, DIVISION 1, “GENERALLY” OF THE CODE OF ORDINANCES, CITY OF BROWNSVILLE, TEXAS, TO ADOPT SECTION 2-311 THROUGH SECTION 2-322, TO BE TITLED CITY BOARD POLICIES; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brownsville, Texas (the “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City is authorized by Texas Local Government Code §51.001 to adopt or amend any ordinance that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

WHEREAS, the City Commission of the City has previously enacted ordinances and resolutions creating various boards, commissions, task forces, and committees (“City Boards”); and

WHEREAS, these City Boards advise the City Commission on matters related to City policies, planning and programming, and/ or fulfilling statutory responsibilities of the City; and

WHEREAS, the City Commission now deems it advisable and necessary to update the City Board policies and codify the aforementioned policies into the City’s Code of Ordinances, thereby regulating the operation of and appointment to the City’s various boards, commissions, task forces, and committees; and

WHEREAS, the City Commission deems it necessary, expedient, and in the best interest of the City to adopt the below revisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendments. Chapter 2, “Administration”, Article IV, “Boards, Committees, Commissions”, Division 1, “Generally” of the Code of Ordinances, is hereby amended to adopt section 2-311 through section 2-322, to be titled “City Board Policies”, to read entirely as follows:

Chapter 2 – ADMINISTRATION

ARTICLE IV. - BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. - GENERALLY

Secs. 2-311.- Purpose.

To encourage qualified individuals to serve on city boards, to increase the information available to the public regarding service on city boards, and to make the commission aware of qualified individuals who may be willing to serve on city boards. The City Commission recognizes that the city is best served by boards and advisory bodies that reflect the geographic distribution and diversity of the community they serve. The Commission also recognizes that the needs of the city and the agencies are best met when qualified candidates are matched to the boards' individual requirements.

Secs. 2-312.- Applicability.

These rules shall generally apply as follows:

This division shall apply generally to all city boards with the exception that, in the case of a conflict between this division and state law, or the city charter, state law or the city charter shall prevail.

The procedures relating to the Commission's appointment of board members shall apply to all city boards, including the Brownsville Public Utilities Board (BPUB), the Greater Brownsville Incentives Corporation (GBIC), a Type-A corporation, and the Brownsville Community Improvement Corporation (BCIC), a Type-B corporation.

In the event of a conflict, between this division and any bylaw provision of any internal city board this division shall control.

If any provision of this division is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this division shall remain in full force and effect.

Secs. 2-313. – Definitions.

The following words shall have the meanings ascribed to them by this section:

(a) **ADVISORY BOARD(S)** means a City Board that exists to provide the City Commission advice on the subject matter assigned to the board by the Commission or by statute. An advisory board shall provide advice through reports to the City Commission unless another method is established by statute, city charter, ordinance, resolution, or minute entry. Because such boards are solely advisory in nature, the City Commission has ultimate authority and can accept, reject, or amend such advice. Unless otherwise provided for by its enabling act, **ADVISORY BOARDS** are not subject to the Texas Open Meetings Act but must post notice of meetings pursuant to section 2-320, Meeting Procedures.

(b) **BOARD or CITY BOARD** means a board, committee, task force, or commission of the city which is established by statute, City Charter, ordinance, resolution, or minute entry.

(c) **BOARD LIAISON** means the city staff member assigned by the City Manager, or their designee, to work and provide support to the board. The board liaison's role is to:

- a. Prepare meeting agendas, staff reports for the City Board, and supporting information for agenda items for the City Board prior to meetings.
- b. Conduct roll call and take attendance at each meeting.
- c. Perform quarterly audits on attendance.
- d. Ensure compliance with the Texas Open Meetings Act and the Public Information Act, where applicable.
- e. Assist the City Board in preparing board recommendations and presentations to the City Commission.
- f. Respond to board member requests for information related to the business of the board.
- g. Provide board training or assist in securing specialized training for the boards.
- h. Except for quasi-judicial boards such as the Board of Adjustment and Building Standards Commission, Board members do not have authority over the work program of city staff. Rather, the liaison acts as an information resource and provides technical assistance. City Board members may not direct city staff in the performance of their commission-related activities, nor can they assign projects or direct the work of staff. A City Board may request staff assistance on various projects; however, the City Manager, or their designee, must approve all requests that create a substantial demand for a work product.
- i. When not in conflict with the City Charter or the bylaws of BPUB, GBIC, and BCIC, the director or chief executive officer (CEO) of these entities, or their designee, shall serve as that entity's Board Liaison to the city. The remaining provisions of this subsection (c) do not apply to BPUB, GBIC, or BCIC.

(d) CHAIR means the presiding officer of a board, whether appointed by the City Commission or elected by the other members of the board. A Chair is a member of the City Board and maintains those powers granted to them under the City Board's bylaws.

(e) CITY VENDOR means any individual, corporation, or company that has contracted with the city for services or goods.

(f) CONFLICTS OF INTEREST means the conflicts of interest and transparency laws codified as Local Government Code Chapters 145, 171, 176, and Government Code Chapters 553 and 2252 aimed at local officials' conflict of interest, including the City's Ethics Ordinance codified as Chapter 38 of the City's Code of Ordinances.

(g) **GOVERNMENTAL BODY** means every deliberative body having rule or quasi-judicial power and classified as a department, agency, entity, or political subdivision of the city. This includes BPUB, GBIC and BCIC.

(h) **MEETING** means a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered during which the governmental body takes formal action.

(i) **MEMBER** means a duly appointed member of a City Board.

(j) **REGULAR MEETING** means a regularly scheduled meeting established by state statute, City Charter, ordinance, resolution, or minute entry and may be scheduled weekly, monthly, semimonthly, or quarterly, as the responsibilities of the board necessitate, at a location within a building open to the public.

(k) **SPECIAL MEETING** or **SPECIAL CALLED MEETING** means a meeting called by the chair at any time, or called by the written request of two members of the City Board.

(l) **TASK FORCE** means an ad hoc committee formed to carry out necessary charges or work on pressing issues. Unlike a commission or standing committee that has ongoing responsibilities, a task force is usually time-limited, focusing on specific goals.

Secs. 2-314. – Appointment Process for Board Appointment.

(a) Individual City Commission members make nominations to the full City Commission for the governing body's approval or disapproval. The City Commission will make every reasonable attempt to ensure that the geographical diversity of the different city districts is fairly represented on all City Boards. City Commission members may consider an individual's qualifications, willingness to serve, application information in selecting nominations for service, and any prior board service/attendance, as applicable.

- a. **Seven Member Boards.** For City Boards with seven members, each City Commission member is responsible for making nominations for City Board places assigned to him or her, which corresponds to the City Commission member's place.
- b. **Eight or More Member Boards.** On all City Boards having eight or more appointed members, each City Commission member is responsible for making nominations for City Board places assigned to him or her, which corresponds to the City Commission member's place, all other remaining positions may be selected from the qualified candidates as determined by the City Commission, unless state law, city charter, ordinance, or resolution requires otherwise.

(b) The Board Liaisons shall promptly notify the City Secretary of any current or anticipated vacancies on city boards and committees. The members of the City Commission should also actively recruit candidates who wish to apply for service on City Boards.

(c) The City Secretary shall post and advertise on the city's web page current and upcoming vacancies in city boards and committees. The City Secretary will gather all applications that meet the minimum eligibility criteria set forth in this division, or those found within the city charter, ordinance, or resolution, and submit them to the City Commission. The applications will be considered to be on file and effective for one year.

(d) The members of the City Commission shall make their motions to appoint qualified candidates who are eligible for a term on said board/committee. The City Commission may also, subject to each commissioner's right to make nominations, in its discretion, vote to consider other applicants who have completed applications and conflict of interest statements on file with the City Secretary's office who may have missed the application deadline.

(e) All appointed members shall complete an application packet containing and execute a conflict-of-interest statement before being sworn in to their position on a City Board.

Secs. 2-315. – Application Process Applicable to Mayoral Appointments.

Texas Law gives the Mayor of a municipality the unilateral authority to make certain appointments. The following procedure is advisory only. The Mayor should, any time he/she wishes to make an appointment, notify the City Secretary of the vacancy, who shall post and advertise on the city's web page current and upcoming vacancies in applicable City Boards. Any interested applicant seeking an appointment should complete an application packet containing and execute a conflict of interest statement before being considered for a mayoral appointment for service on any City Board. The City Secretary will gather all applications which meet the minimum eligibility criteria set forth in this division and submit them to the Mayor and City Commissioners for review. The Mayor shall announce the name of the appointee at a City Commission meeting. Such a policy ensures that the Commissioners and the public are informed of who was appointed by the Mayor.

Secs. 2-316. – Eligibility Criteria.

(a) **Written Application.** A signed, current application form may be submitted for consideration for service on a City Board. Applications are considered current for one (1) year after the original submittal, after which the application will be removed from consideration. The applicant may reapply and submit a new application.

(b) **Residency.** Unless the authorizing ordinance or law creating or otherwise governing a board or committee specifically requires otherwise, appointees shall be residents of the City of Brownsville, Texas. However, the City Commission may also appoint an individual to a City Board if otherwise permitted by law, where that individual has established a business in Brownsville, provided significant civic or community service within Brownsville, or who has otherwise demonstrated prior significant willingness to serve the community in Brownsville, Texas. The same shall apply to appointments made for the GBIC and the BCIC where permitted by state law.

(c) **Nepotism.** Pursuant to section 30, Nepotism, of the city charter, no person related within the second degree by affinity, or within the third degree by consanguinity, to the mayor or any of the commissioners, shall be appointed by the city commission, nor a person thus related to the city manager shall ever be appointed by him to any office, position, clerkship or service of the city.

(d) **Default to City.** No person shall be appointed a member of a board who is in default in the payment of any valid indebtedness or obligation due the City.

(e) **Criminal Check.** No individual may serve on any City Board who has a felony conviction from which the individual has not been pardoned or otherwise released from the resulting disabilities or who has, within the past ten years, been convicted of any crime of moral turpitude.

(f) **Vendors or Grantees.** No individual who is presently a City Vendor, or who presently owns a substantial interest in any company which is a city vendor, is eligible to sit on a City Board which contracts directly with that vendor. No individual who has obtained business incentives from a City Board, or individual who owns a substantial interest in any company which has obtained business incentives from any City Board, may serve on that same City Board within five years of receiving such incentives.

(g) **Pending Litigation or Claim.** No individual who has pending litigation or a claim against the City, including, but not limited to, mediation, arbitration, or any adverse proceeding, may serve on a City Board.

Secs. 2-317. – Number of Members, Term of Office, Attendance, and Multiple Service.

(a) **Number of Members.** Unless otherwise provided by state law, City Charter, or City Commission exception, all City Boards shall be composed of seven members.

(b) **Terms of Office.** All terms shall be two (2) years unless otherwise provided by state law or ordinance.

(c) **Appointments.** Appointments shall be made quarterly, and appointments are effective when made. An appointment made for filling a vacancy shall be for the remainder of the term for the position filled.

(d) **Attendance.** A City Board member shall attend seventy-five percent (75%) of the regular meetings during a term to be considered for reappointment. Any Board member or committee member who has three consecutive unexcused absences from a regular meeting shall be automatically deemed to have resigned from his/her appointment with no further action by the City Commission. A special called meeting will not reset the three consecutive regular meetings. The following criteria are automatically excused absences: personal or family illness, death of a family member, jury duty, service in the armed forces, testifying before the legislature, attending a seminar involving municipal matters of importance to the member's duties, or an absence necessary for the member's business or employment. At the request of a member, the board a member serves on may also consider excusing an absence that does not fall within the criteria for automatically excused absences if approved by a

majority vote of the members present. Such action must be taken at a posted meeting that is not more than two posted meetings from the absence and must be recorded in the minutes. If members at the time of this section's enactment have absences that meet the criteria for automatically excused absences, that member's absences shall be excused under this subsection (d). However, a member who has been deemed as vacated their position shall be considered a holdover member of that City Board until such time as the City Commission will fill the said vacancy by appointment.

(e) **Continued Service.** A City Board member is immediately eligible for all other City Boards upon completion of term limits on the current City Board.

(f) **Multiple Service.** Except for City Board members serving as an alternate or a temporary appointment for a specific matter, no City Board member shall serve concurrently on more than two City Boards as a Regular Member.

(g) **Family Service.** No spouses or individuals related within one degree of consanguinity or affinity may simultaneously serve on the same City Board. Spouses and individuals related within one degree of consanguinity or affinity may serve on different City Boards provided they comply with any statutes or rules pertaining to conflict of interest. Pursuant to the City Charter, no person related within the second degree by affinity, or within the third degree by consanguinity, to a member of the City Commission, shall be appointed by the City Commission, nor a person thus related to the City Manager shall ever be appointed by him/her to any City Board.

(h) **Removal.** The City Commission may remove any board member at any time, with or without cause, including but not limited to the failure to attend seventy-five percent (75%) of board meetings within a member's term or violating any provision of this Division. This shall not apply to Boards whose removal is governed by the city charter or state statute, in which case the city charter or state statute will control. The procedures relating to the removal of board members shall apply to all City Boards, including the GBIC and the BCIC, whose Board members serve at the will of the City Commission. The procedures relating to removal of board members shall not apply to the BPUB as the provisions for the removal of B PUB Directors are established by city charter.

Secs. 2-318. – Official Notification; Acceptance.

(a) After the City Commission appoints or reappoints a person to serve as a member of a City Board, the City Secretary, or Board Liaison, shall notify the person of the appointment or reappointment either through the U.S. mail or via e-mail. The notification from the City Secretary, or Board Liaison, shall request acceptance of the appointment within 10 calendar days from the date of receiving notice of the appointment or reappointment. Board Members reappointed to City Boards will be notified and will be asked to notify the City Secretary's office, or Board Liaison, if they decline the appointment.

(b) The appointee must take the required Open Government training and provide certificates of completion to the City Secretary within 90 days of the acceptance of an appointment, or reappointment, or shall be considered as having vacated their position.

(c) The appointee must submit the required personal finance statement required by the City's Code of Ethics, and any additional form as required by state statutes. Failure to submit the required statement to the City Secretary's Office within 90 days of the acceptance of an appointment, or reappointment, shall be considered as having vacated their position.

(d) The Board Liaison shall send a letter of gratitude on behalf of the City to each retiring member.

Secs. 2-319. – Oath of Office; Orientation and Training.

(a) Pursuant to the city charter, City Board members are required to take one or more oaths of office. The corresponding Board Liaison is also responsible for ensuring all documents finalizing the appointment processes have been completed before allowing a member to participate in a meeting.

(b) City Board members are required to participate in training session(s) provided by the city. These training sessions will be scheduled as a regular agenda item by the Board Liaison. Members are also required to complete open government training through the Texas Attorney General's Office. Upon completion of training, members must submit a completed certificate to the City Secretary or Board Liaisons.

(c) Board Liaisons shall provide orientation with "new" appointees well in advance of the first meeting to provide a general overview of the board's responsibilities, agenda/meeting process, and any other issues relevant to the board, commission, or committee.

Secs. 2-320. – Meeting Procedures.

(a) Board meetings are governed by Robert's Rules of Order, the board's bylaws or rules of procedure, and any applicable state statutes.

(b) Each Board shall adopt the city's standard board bylaws. A bylaw amendment is not effective unless approved by the City Commission after review by the Office of the City Attorney.

(c) Boards may adopt special rules of procedure as required. A board's special rules of procedure may not conflict with state or federal law, the board's bylaws, or the city charter and code of ordinances.

(d) Unless otherwise provided for by its enabling act, Advisory Boards are not subject to Texas Open Meetings Act ("TOMA") quorum requirements but must post the agenda at least 72 hours before the stated meeting time. All other City Boards must comply with TOMA.

Secs. 2-321. – Nondiscrimination.

The city is committed to providing an inclusive and welcoming environment for all members of our community and to ensuring that board and committee appointments are based on individuals' abilities

and qualifications. Consistent with this principle and applicable laws, it is, therefore, the city's policy not to discriminate in making appointments to its boards and committees on the basis of race, color, gender, national origin, age, religion, creed, disability, veteran's status, sexual orientation, gender identity or gender expression. Such a policy ensures that only relevant factors are considered and that equitable and consistent standards of conduct and performance are applied.

Secs. 2-322. – Nonwaiver

This division is intended as a procedural guide for the City Commission and is not intended to establish any property right or procedural right as to any board appointment, which appointments are totally discretionary with the City Commission. The City Commission shall have the right to modify or change this division.

The right to make an appointment to any City Board is a discretionary right that belongs to the City Commission or, in several cases where required by statute, the Mayor. The City Commission does not, through the adoption of this division, abandon or cede any of its discretionary rights to make appointments.

This division is intended as a guide for the City Boards and shall not create any property right or right to procedural due process or due course of law under the constitutions of the State of Texas or the United States. The City Commission reserves the right to change or eliminate this procedure at any time it feels, at its discretion, if it no longer best serves the interests of the city.

Section 3. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 4. Severability. Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Brownsville hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 5. Effective Date. Pursuant to the City Charter, this Ordinance shall become effective upon its second and final reading and passage. Members of City Boards who automatically vacated their position under the 2018 Board and Commission Policies, and were not removed by the City Commission and their position was not filled by another appointment, shall be reappointed to the remainder of their positions with that City Board.

Section 6. Open Meetings. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

Signature Page Follows

INTRODUCED and PASSED at a PUBLIC HEARING and FIRST READING on this the 1st day of August, 2023.

APPROVED AND PASSED on the SECOND and FINAL READING on this the 7th day of November, 2023.

John Cowen, Jr.
Mayor

ATTEST:

Yolanda Galarza-Gomez, TRMC
City Secretary

APPROVED AS TO FORM:

Guillermo (Will) S. Trevino
City Attorney

Exhibit "A"

TEMPLATE FOR STANDARD CITY BOARD BYLAWS

BYLAWS OF THE

(Board Name)

ARTICLE 1. NAME.

The name of the board is _____ *(board name as it appears in the City Code of Ordinances or other enabling act).*

ARTICLE 2. PURPOSE AND DUTIES.

The purpose of the board is _____. *(Insert the information directly from the City Code of Ordinances or other enabling act.)*

ARTICLE 3. MEMBERSHIP.

- (A) The board is composed of _____ members appointed by the city commission.
- (B) A member serves at the pleasure of the city commission.
- (C) Board members serve for a term of _____ years beginning _____ on the year of appointment.
- (D) An individual board member may not act in an official capacity except through the action of the board.
- (E) A board member shall attend seventy-five percent (75%) of the regular meetings during a term. Any board member who has three consecutive unexcused absences from a regular meeting shall be automatically deemed to have resigned from his/her appointment with no further action by the City Commission. A special called meeting will not reset the three consecutive regular meetings. The following criteria are automatically excused absences: personal or family illness, death of a family member, jury duty, service in the armed forces, testifying before the legislature, attending a seminar involving municipal matters of importance to the member's duties, or an absence necessary for the member's business or employment. At the request of a member, the board a member serves on may also consider excusing an absence that does not fall within the criteria for automatically excused absences if approved by a majority vote of the members present. Such action must be taken at a posted meeting that is not more than two posted meetings from the absence and must be recorded in the minutes. If members at the time of this section's enactment have absences that meet the criteria for automatically excused absences, that member's absences shall be excused under this subsection (d). However, a member who has been deemed as vacated their position shall be considered a holdover member of that City Board until such time as the City Commission will fill the said vacancy by appointment.
- (F) At each meeting, the board liaison shall take roll call and record the attendance of each member.

(G) A member who seeks to resign from the board shall submit a written resignation to the chair of the board, the staff liaison, or the city secretary's office. If possible, the resignation should allow for a thirty-day notice so the city commission can appoint a replacement.

ARTICLE 4. OFFICERS.

(A) The officers of the board shall consist of a chair and a vice-chair *[or insert other name of officers]*.

(B) Officers shall be elected annually by a majority vote of the board at the first regular meeting of the calendar year. In the event a current officer becomes ineligible to serve as an officer, the board may hold an emergency election as needed.

(C) The term of office shall be _____ year, beginning _____ 1st and ending _____ 30th/31st. An officer may continue to serve until a successor is appointed.

(D) A member may not hold more than one office at a time.

ARTICLE 5. DUTIES OF OFFICERS.

(A) The chair shall preside at board meetings, represent the board at ceremonial functions and approve each final meeting agenda.

(B) In the absence of the chair, the vice-chair shall perform all duties of the chair.

ARTICLE 6. AGENDAS.

(A) Two or more board members may place an item on the agenda by oral or written request to the staff liaison at least five days before the meeting. After first consulting with and receiving input from the staff liaison, the chair shall approve each final meeting agenda. However, the chair shall not have the power to remove a duly requested item from the agenda.

(B) The board liaison shall submit the meeting agenda through the online agenda posting system for each meeting not less than 72 hours before the meeting.

(C) Posting of the agenda must comply with Texas Government Code Chapter 551 (Texas Open 38 Meetings Act).

ARTICLE 7. MEETINGS.

(A) The board meetings shall comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).

(B) Board meetings shall be governed by Robert's Rules of Order *(or name other governing set of rules)*.

(C) The board may not conduct a closed meeting without the approval of the city attorney so long as the meeting is under an exception provided for by Chapter 551 of the Texas Government Code, the Texas Open Meetings Act.

(D) The board shall meet *(select one of the following: monthly, quarterly, or when the board is legally required to meet in order to comply with a legal deadline.)* In December *(or such other time when the board regularly meets)* of each year, the board shall adopt a schedule of the meetings for the upcoming year, including makeup meeting dates for the holidays and cancelled meetings.

(E) The chair may call a special meeting, and the chair shall call a special meeting if requested by two or more members. The call shall state the purpose of the meeting.

(F) _____ members constitute a quorum.

(G) If a quorum for a meeting does not convene within one-half hour of the posted time for the meeting, then the meeting may not be held. *(delete for advisory boards)*

(H) To be effective, a board action must be adopted by an affirmative vote of the number of members necessary to provide a quorum.

(I) The chair has the same voting privilege as any other member.

(J) The board shall allow citizens to address the board on agenda items and during a period of time set aside for citizen communications. The chair may limit a speaker to three minutes. Members of the board may suspend the rules to allow additional time to a speaker.

(K) The board liaison shall prepare the board minutes. The minutes of each board meeting must include the vote of each member on each item before the board and indicate whether a member is absent or failed to vote on an item.

(L) The city secretary, or board liaison, shall retain agendas, approved minutes, internal review reports and bylaws. The _____ *(liaison's department name)* shall retain all other board documents. The documents are public records under Texas Local Government Code Chapter 552 (Texas Public Information Act).

(M) The chair shall adjourn a meeting not later than _____ (10 p.m. or some other time), unless the board votes to continue the meeting.

(N) Each person and board member attending a board meeting should observe decorum pursuant to Section 2-26, Meetings and Agendas, of the City Code of Ordinances.

(O) A member of the public may not address a board at a meeting on an item posted as a briefing.

ARTICLE 8. COMMITTEES/WORKING GROUPS.

COMMITTEES

(A) The _____ (*Name of the board*) shall have the following committees:
(*Name and describe the duties of each Committee.*

If the board does not have any committees, use the following language):

(A) The _____ (*Name of the board*) will have no committees.

(B) Each committee must be established by an affirmative vote of the board. A committee cannot meet until its creation is approved by the City Commission. Each committee shall consist of at least three board members appointed by the chair. A staff member shall be assigned to each committee by the director of the _____ (*department name*).

(C) The board chair shall appoint a board member as the committee chair, with the member's consent.

(D) A majority of the total number of appointed committee members constitutes a quorum.

(E) Each committee shall meet on a regularly scheduled basis at least quarterly.

(F) Each committee shall make an annual report to the board at the January board meeting.

(G) Committee meetings must be posted in accordance with Texas Government Code Chapter 551 (Texas Open Meetings Act).

(H) At each committee meeting, a committee member shall sign in on a sheet provided and shall indicate that the member has no conflict of interest with any item on the committee meeting agenda, or identify each agenda item on which the member has a conflict of interest.

WORKING GROUPS

(A) The board can determine the size of a working group but the number of board members serving on the working group must be less than a quorum of the board.

(B) A working group may designate a chair, with the member's consent, but is not required to do so.

(C) Quorum requirements do not apply to working groups.

(D) Staff support will not be provided for working groups.

(E) Working groups are not required to post their meetings in accordance with the Texas Government Code Chapter 551 (Texas Open Meetings Act).

ARTICLE 9. PARLIAMENTARY AUTHORITY.

The rules contained in the current edition of Robert's Rules of Order (Or insert other governing set of rules) shall govern the board in all cases to which they are applicable, except when inconsistent with these bylaws or with special rules of procedure which the board or city commission may adopt.

ARTICLE 10. AMENDMENT OF BYLAWS.

A bylaw amendment is not effective unless approved by the [name of board] and City Commission.

The bylaws were approved by the _____ (insert - board name) at their meeting held on _____ (insert – month date, year).

(Signature of Executive or Staff Liaison)

(Insert – Title -- Executive or Staff Liaison)

DRAFT



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Helen Ramirez, City Manager
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve an Interlocal Agreement with the City of Harlingen for Fire Inspection Services. (City Manager's Office)

Summary:

This interlocal agreement (ILA) will allow the City of Harlingen Fire Department (Harlingen) to provide the City with additional fire inspection services when our fire inspectors are conflicted from reviewing fire plans or performing fire inspection services. The ILA calls for the City to reimburse Harlingen for the actual costs of providing a fire inspector as per our request. The City anticipates only using Harlingen a handful of times, as the need arises.

Project Scope and Analysis:

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

Staff recommends approval

Commission Pillar:

Infrastructure
Public Safety

Attachments:

1. ILA with Brownsville Harlingen for Fire Inspection Services

INTERLOCAL AGREEMENT

§

§

THIS (“**AGREEMENT**”), is made and entered into by the CITY OF ~~COLLEYVILLE~~~~BROWNSVILLE~~, TEXAS a Home Rule municipal corporation, (“~~COLLEYVILLE~~~~BROWNSVILLE~~”), and the CITY OF ~~KELLER~~~~HARLINGEN~~, TEXAS, a Home Rule municipal corporation, (“~~KELLER~~~~HARLINGEN~~”), (individually referred to as a “Party” and collectively referred to as the “Parties”), upon the premises and for the consideration stated herein, and each acting by and through its duly appointed and authorized city managers:

WITNESSETH:

~~WHEREAS, pursuant to Chapter 50, Fire Protection and Prevention, Article II, Fire Marshal, Section 50-39, Inspection of premises and Chapter 50, Fire Protection and Prevention, Article III, Fire Prevention Code, BROWNSVILLE is charged with the administration and enforcement of the International Fire Code, as may be amended from time to time, within its corporate limits; and the 82nd Legislature of the State of Texas passed House Bill 984 and the Governor signed into law on May 19, 2011 an act relating to agreements between neighboring municipalities regarding jurisdiction of cases in municipal courts; and~~

WHEREAS, the International Fire Code require various inspections of new and existing occupancies and buildings; the cities of COLLEYVILLE and KELLER recognize the joint benefits of a combined municipal court system; and;

WHEREAS, HARLINGEN has the statutory authority under Chapter 50, Fire Protection and Prevention, Article III, Fire Prevention Code, Section 50-70, Establishment and duties of bureau of fire prevention; inspectors, competence, and desire to assist BROWNSVILLE in undertaking certain fire inspections within BROWNSVILLE's corporate limits; and~~KELLER is desirous of joining COLLEYVILLE by combining municipal court services to provide a more effective and efficient delivery of this key public service; and~~

~~WHEREAS, COLLEYVILLE has the facilities available to perform the municipal court services for both cities; and~~

~~WHEREAS, COLLEYVILLE AND KELLER desire to enter into this Agreement to combine municipal court services to deliver this key public service at the highest level possible for both communities in accordance with the terms and conditions set forth herein; and~~

WHEREAS, ~~any reimbursements made~~ all payments for municipal court services to be made hereunder shall be made from current revenues available to the paying party; and

WHEREAS, ~~the Parties COLLEYVILLE and KELLER~~ have concluded that this Agreement fairly compensates the performing party for the ~~municipal court~~ fire inspection services being provided hereunder; and

WHEREAS, ~~COLLEYVILLE and KELLER~~ the Parties believe that this Agreement is in the best interests of ~~COLLEYVILLE-BROWNSVILLE and KELLER~~ HARLINGEN; and

WHEREAS, ~~COLLEYVILLE and KELLER~~ this Agreement is approved by the governing bodies of BROWNSVILLE and HARLINGEN; and

WHEREAS, ~~COLLEYVILLE and KELLER~~ this Agreement is authorized by and in conformance with Chapter 791 of the Texas Government Code, the Interlocal Cooperation Act (the "Act").

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND CONSIDERATION PROVIDED FOR HEREIN, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY CONFIRMED, THE CITIES OF BROWNSVILLE AND HARLINGEN ~~COLLEYVILLE AND KELLER~~ HEREBY AGREE TO THE FOLLOWING:

Section 1. All matters stated above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Section 2. **Term.** ~~T~~ This Agreement shall be for an initial term of ~~six-one (61)~~ six (6) years commencing on ~~October-October 31, 1, 2012~~ October 1, 2023, and ending ~~September November 30, 2018~~ September 30, 2024, (the "Initial Term") and may be extended thereafter by mutual consent of the parties hereto for two successive ~~five-one (51)~~ one (1) year terms. (The renewal terms shall be referred to as the "First Renewal Term" and "Second Renewal Term", respectively).

Section 3. **Scope of Services to be provided by COLLEYVILLE HARLINGEN.** HARLINGEN agrees to provide fire inspection services COLLEYVILLE hereby agrees to provide KELLER the following equipment, services, personnel, and facilities:

~~Commencing October 1, 2012, COLLEYVILLE will provide municipal court services at the Colleyville Justice Center. The Municipal Judge will be jointly appointed by both COLLEYVILLE and KELLER (as described in Exhibit "AC") and will establish a mutually agreeable practice for municipal court proceedings and daily arraignment protocol of all prisoners. COLLEYVILLE will provide the necessary facilities, security, administrative oversight, financial management, general court staffing and other employees to properly supervise and operate the combined municipal court facility. Municipal court services shall include at a minimum, but not necessarily be limited to, at a minimum the following:~~

~~enforcement of Class C misdemeanor criminal laws and ordinance violations which occur in the KELLER City of Keller including the interpretation, application and enforcement of KELLER City of Keller ordinances and state law; accepting full responsibility for the custodial care of all persons taken into custody by SOUTHLAKE and COLLEYVILLE and delivered to the KELLER Police Department jail facility;~~

~~maintenance of all citations and other applicable records related to citations issued in the KELLER City of Keller providing necessary all booking services when accepting prisoners to the facility;~~
~~completion of reports on convictions and submission to the State of Texas providing SOUTHLAKE and COLLEYVILLE with full access to inmates for the purpose of conducting interviews or interrogations, in accordance with reasonable regulations established by KELLER or other reports as required or agreed upon;~~
~~informing all defendants of citations issued in the KELLER City of Keller of their legal options under the laws of the State of Texas making available all prisoners whose presence is requested or ordered by a court of competent jurisdiction;~~
~~providing Municipal Court judicial services including trials, property hearings, arraignments, warrant issuance, juror notification, setting of bonds, other judicial proceedings and magistrate services~~
releasing prisoners for investigative purposes outside the jail facility when such requests are authorized by a duly authorized SOUTHLAKE and COLLEYVILLE official;
~~providing financial reports to the City of Keller KELLER and other reports as required by external audit firms as required by Generally Accepted Accounting Principles (GAAP) to be used by the City of Keller for compliance with GAAP maintaining a log and other applicable records of these and all other significant events related to SOUTHLAKE and COLLEYVILLE prisoners.~~
 Fully administer a payment kiosk as may to be located in KELLER to include reconciling data and contracting with a secure armored car service for financial transport. All costs associated with the kiosk shall be borne by KELLER.
 maintaining a service level to KELLER that complies with all applicable standards for the Court function as required presently and in the future by the Commission on Accreditation for Law Enforcement Agencies, Inc.

~~COLLEYVILLE shall may make a conditional offer of employment to not less than three (3) municipal court employees currently employed by the Keller Municipal Courts Department on or before September 1, 2012, for employment with COLLEYVILLE to become effective on the merger date of October 1, 2012, contingent upon the KELLER municipal court employees passing a COLLEYVILLE pre-employment drug screen and meeting all other hiring requirements of COLLEYVILLE. COLLEYVILLE shall place the KELLER municipal court employees on the COLLEYVILLE pay roll scale for the position for which they are hired at the amount of closest to their current hourly base rate at KELLER and shall grant them the immediate ability to accumulate vacation and sick leave at a rate in accordance with their current tenure with KELLER and the ability to utilize such vacation and sick leave upon hire. Upon employment by COLLEYVILLE the KELLER municipal court employees will serve the standard COLLEYVILLE probationary period for the position for which they are hired. Further, they will receive the same employment benefits provided to COLLEYVILLE employees at a comparable pay scale plus one (1) week of sick leave. An annual \$2,000 regional municipal court stipend will be paid on a bi-weekly interval in addition to the COLLEYVILLE pay scale to all of the employees assigned to the COLLEYVILLE municipal courts. This will insure an initial pay increase for all Keller municipal court employees who accept a position in COLLEYVILLE. All of the municipal court employees will receive the regional stipend as long as this Agreement is in force.~~

~~All Human Resource services necessary for the recruitment, screening, employment, and training of all personnel required to provide municipal court services for COLLEYVILLE and KELLER, including providing all employee policies and procedures and the administration thereof shall be provided by COLLEYVILLE.~~

~~COLLEYVILLE shall provide access to KELLER any and all of KELLER'S court financial or court case related documentation.~~

~~REPORTING????COLLEYVILLE shall prepare and administer reports as shown on Exhibit BD.~~

~~COLLEYVILLE will provide payment to KELLER on a weekly basis for municipal court revenues due to KELLER by electronic or wire transfer.. COLLEYVILLE shall provide to KELLER any and all related financial reports relating to the collection and payment of such revenue as may be requested by KELLER and necessary for auditing functions. PAYMENT????~~

~~COLLEYVILLE will form a standing committee consisting of two (2) KELLER employees selected by the KELLER City Manager and two (2) COLLEYVILLE employees selected by the COLLEYVILLE City Manager to address operational and policy decisions that may arise from operating the combined municipal court system.~~

~~COLLEYVILLE shall contract for and pay directly to the contractor all costs associated with prosecution services for COLLEYVILLE related court actions.~~

~~COLLEYVILLE agrees to perform all services under this agreement in a good and workmanlike manner, and in accordance with all applicable laws and regulations, including the following:-~~

- ~~a. HARLINGEN through its fire inspector will be responsible for performing fire safety plan reviews and all fire safety inspections, including assistance with fire code compliance and enforcement, within BROWNSVILLE'S corporate limits that are required by the International Fire Code as currently in effect and as may be amended, including without limitation inspections of existing occupancies and follow up inspections to ascertain if previously noted deficiencies have been corrected. The Inspector may perform joint inspections with qualified employees of BROWNSVILLE.~~
- ~~b. HARLINGEN through its fire inspector will provide copies of all inspection reports to BROWNSVILLE. The report must describe all the deficiencies. If a deficiency is deemed to be life threatening, HARLINGEN must immediately notify BROWNSVILLE.~~
- ~~c. HARLINGEN shall designate a contact person for the implementation of this Agreement.~~
- ~~a.d. Upon proper request for assistance, HARLINGEN shall return acknowledgement of any available resources requested through the appropriate contact person or designee.~~

Section 4. **KELLER BROWNSVILLE Obligations.**—~~KELLER BROWNSVILLE~~ agrees to perform the following:

- ~~a.—BROWNSVILLE shall reimburse HARLINGEN for its actual cost in performing any fire inspection services Pay the sum of Two Hundred Twenty Thousand, Six Hundred and Ten~~

Dollars (\$220,610.00) to COLLEYVILLE for municipal court services for the Fiscal Year 2012/13 beginning on October 1, 2012 and ending on September 30, 2013. The amount of charges to be established based on the adopted Fiscal Year 2012/13 COLLEYVILLE Municipal Court Department Operating budget to provide municipal court services. This payment represents a 45.9% cost share of all municipal court services by KELLER based on the previous three calendar years average number of citations issued (See payment schedule, Section 6.)

b. ~~Pay the sum of Twenty-seven Thousand and Nine Hundred Sixty-One Dollars (\$27,961.00) for General and Administrative Charges based on COLLEYVILLE'S operating budget for Fiscal Year 2012/13. (Payment percentages described in Exhibit "CA" shall remain the same for the duration of this agreement.) A revised Exhibit "CA" shall be automatically adopted each year using the methodology contained in the initial Exhibit "CA".~~

c. ~~In order to ensure the combined municipal court system functions in a workmanlike manner, and in accordance with all applicable laws and regulations, budget an annual sum to be determined based on agreed upon needs for court security and court technology to be paid for from the court technology and court security funds held by KELLER.~~

~~Pay the annual costs associated with the implementation, use, maintenance and servicing of a payment kiosk(s) to be located in KELLER as may be desired by KELLER.~~

d. ~~KELLER shall contract for and pay directly to the contractor all costs associated with prosecution services for KELLER related court actions.~~

a. ~~Pay a one-time equipment and configuration cost of approximately \$25,500 for court security and approximately \$54,000 XXXX (\$XXXX) for court technology to COLLEYVILLE to prepare the municipal court facility to accommodate the merger of services. COLLEYVILLE will provide the necessary documentation to KELLER for reimbursement. Exhibit "DB" is an estimate for the costs known at this time. COLLEYVILLE will retain the title to all the equipment in the municipal court facility and is responsible to properly maintain and insure the equipment.~~

b. BROWNSVILLE shall make available any plans, schematics, copies of Fire Codes and policies, and reasonable access to the premises subject to a fire inspection.

c. BROWNSVILLE shall designate a contact person for the implementation of this Agreement.

d. BROWNSVILLE shall make any requests for assistance through the appropriate contact person or designee.

e.

~~Section 56. **Payments for Services Performed.** All payments for municipal court services except for the one time configuration and equipment payment outlined in Section 45.b.d., hereto shall be paid by KELLER in four (4) equal installments due on the 15th day of each calendar quarter beginning October 1, 2012 in advance of the services performed by COLLEYVILLE for KELLER for each subsequent calendar quarter of COLLEYVILLE'S fiscal year and continuing thereafter throughout the term of the Agreement.~~

~~— Each annual payment for the operation of the municipal court shall be in accordance with COLLEYVILLE'S Fiscal Year Municipal Court Department Operating budgeted amount adjusted annually to include budgeted increases in operating costs, and capital costs as anticipated to be approved by the COLLEYVILLE City Council during the annual budgeting process for the upcoming Fiscal Year beginning October 1, multiplied by the cost share factor. The cost factor percentage assigned shall be calculated annually at a rate based on the total average number of citations issued by each city for the three most recent calendar years combined (example: Keller = 9,762 average number of citations issued over three years = 46.5%; Colleyville = 11,212 average number of citations issued over three years = 53.5%).~~

~~— Each annual payments for the General and Administrative Charge shall be based on the fixed percentages described in Exhibit "CA", adjusted annually, based on COLLEYVILLE'S respective departmental budget anticipated to be approved by the COLLEYVILLE City Council during the annual budgeting process for the upcoming Fiscal Year beginning October 1.~~

~~— COLLEYVILLE shall notify KELLER of the anticipated costs of the municipal court services, general and administrative charges, and technology and security requests by May 30 prior to the start of each fiscal year for budgeting and planning purposes. The final costs will be determined and communicated in writing when the COLLEYVILLE City Council adopts the COLLEYVILLE annual budget, but shall not exceed the estimate by more than 5%.~~

~~— In the event the KELLER City Council fails or refuses to approve the annual payment amount set forth in this section by September 3025, prior to any fiscal year during the term of this Agreement, the Agreement shall be deemed to be cancelled, cancelled effective at the end of the then current fiscal year of COLLEYVILLE.~~

Section ~~65~~⁷. **Cancellation Termination.**

- a. ~~This Agreement may be terminated by either Party upon 30 days' written notice to the other Party. KELLER shall have the right to terminate, based on the provisions of this Agreement, if COLLEYVILLE breaches any of its terms or fails to perform any of the obligations it imposes, and then fails to cure the breach or failure within thirty (30) days following written notice from KELLER. If the Agreement is terminated under this paragraph, COLLEYVILLE shall be entitled to retain money already received prorated to the period from the last payment until the date of termination, and shall refund the remainder to KELLER.~~
- b. ~~After the initial twenty-four (24) months of this agreement, all parties shall have the right to terminate this Agreement by giving written notice at least twelve (12) months prior to the subsequent Fiscal Year, October 1. All payments by KELLER to COLLEYVILLE shall continue until the cancellation date or as mutually agreed to by both parties.~~

Section ~~76~~⁸. **Notices.** — All notices required or provided for in this Agreement shall be sent to the following parties by certified mail – return receipt requested:

If to City:

COLLEYVILLE~~BROWNSVILLE~~

KELLER~~HARLINGEN~~

c/o: Helen Ramirez, City Manager
Manager
City of Colleyville~~Brownsville~~
1001 E. Elizabeth Street ~~100 Main Street~~
~~Box 770~~

c/o: Gabriel Gonzalez, ~~City~~
City of Keller~~Harlingen~~
118 E Tyler Ave~~P.O.~~

P.O. Box 911 Colleyville, TX. 76034-
76244
Brownsville, Texas 78522

Harlingen, TX 78550~~Keller, TX~~

With a copy to:

<u>City Attorney's Office</u>	<u>City Attorney's Office</u>
<u>Guillermo (Will) S. Treviño, City Attorney</u>	<u>Mark E. Sossi, City Attorney</u>
<u>1001 E. Elizabeth Street</u>	<u>P.O. Box 5761</u>
<u>Brownsville, Texas 78522</u>	<u>Brownsville, TX 78523-5761</u>

Section ~~87~~9. **Dispute Resolution.** ~~—, Immediate performance complaints or concerns should be addressed by communicating the problem to the Municipal Court Administrator~~Parties' authorized representative. If disputes are not resolved by the Parties within 30 calendar days of the referral, unless the Parties agree to an extension of time, the dispute will be referred to a mediator who has been mutually agreed upon by the Parties. Unresolved issues regarding the performance of municipal court services shall then be brought to the standing committee as outlined under Section 3(g) of this agreement.

~~In order to ensure an effective relationship between the parties and to provide the best possible public services, and following consideration by the standing committee, it is mutually agreed that all remaining unresolved questions or concerns questions arising under this Agreement shall first be handled and attempted to be resolved between the City Managers of COLLEYVILLE and KELLER.~~

~~All issues regarding the performance of municipal court services shall be brought directly to the attention of the COLLEYVILLE City Manager or authorized designee. Immediate performance complaints or concerns should be addressed by communicating the problem to the Municipal Court Administrator.~~

~~Any issues not resolved hereunder may be referred to the respective governing bodies for resolution and if necessary, the parties hereby agree to the appointment of a court-certified (certified in Tarrant County) Mediator to assist in resolving said dispute as a prerequisite to the filing of any lawsuit over such issues.~~

Section ~~98~~10. **Venue.** ~~—, Venue for any legal dispute arising pursuant to this Agreement shall lie in Tarrant-Cameron County, Texas. No litigation shall be commenced prior to both parties Parties' completion of mediation in accordance with Section 97.~~

Section ~~109~~1. **Independent contractor.** ~~—All parties mutually agree that COLLEYVILLE HARLINGEN is an independent contractor, and shall have exclusive control of performance hereunder, and that employees of COLLEYVILLE-HARLINGEN in no way are to be considered~~

employees of KELLERBROWNSVILLE. The employment rights of COLLEYVILLE HARLINGEN personnel assigned under this agreement will not be abridged.

Section 1402. — **Indemnification.** — To the extent allowed by law, COLLEYVILLE BROWNSVILLE hereby agrees to indemnify and otherwise hold harmless KELLERHARLINGEN, its officers, agents and employees in both public and private capacity against all liability claims, suits, demands, losses, damages, attorney fees, including all expense of litigation or settlement, or causes of action of any kind which may arise by reason of injury to or death of any person or for a loss of, damage to, or loss of the use of any property arising out of or in any way connected to HARLINGENCOLLEYVILLE'S performance of municipal court fire inspection services under this agreement including any intentional or negligent acts or omissions of HARLINGENCOLLEYVILLE'S officials, officers, agents or employees relating to or arising out of the performance of the fire inspection services municipal court.

~~COLLEYVILLE and KELLER each agree to accept full responsibility for the actions of their own officers, agents and employees in the operation of the municipal court communications center, or in the performance or use of dispatching services under this agreement, and to the extent allowed by law each party hereby agrees to indemnify and otherwise hold harmless the other party, its officers, agents and employees in both public and private capacity against all liability claims, suits, demands, losses, damages, attorney fees, including all expense of litigation or settlement, or causes of action of any kind which may arise by reason of injury to or death of any person or for a loss of, damage to, or loss of the use of any property arising out of or in any way connected to the intentional or negligent acts or omissions of that party, its officers, agents or employees, in the operation of the municipal court communications center, or in the performance or use of dispatching services under this agreement.~~

It is expressly understood and agreed that, in the execution of this Agreement, COLLEYVILLE the Parties do not ~~and KELLER do not~~ waive, nor shall be deemed hereby to waive any immunity or defense that would otherwise be available to or against claims arising in the exercise of governmental functions relating hereto or otherwise. —By entering into this Agreement, COLLEYVILLE and KELLER the Parties do not create any obligations express or implied, other than those set forth herein, and this Agreement shall not create any rights in any parties parties not signatory hereto.

It is further understood and acknowledged that neither Party is obligated to levy a tax or create a sinking fund to met its obligations hereunder.

Section 123. — **Municipal Court Facility.** — ~~In the event that the municipal court services located at the COLLEYVILLE Justice Center is damaged due to a natural or a man made disaster and is unusable, COLLEYVILLE will have a contingency plan to continue to provide the services under this Agreement at another facility within Northeast Tarrant County.~~

Section 1314. — **Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the matters covered by this Agreement, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Agreement shall be binding or valid. **Annual Review.** — Annually, at the time the cost for municipal court services are re-calculated, this Agreement will be reviewed by both parties for needed clarification and or revisions. This Agreement may only be modified, changed or altered at any time, upon mutual agreement of parties, provided that any such modification, change and/or alteration be reduced to writing, and approved by the governing bodies of COLLEYVILLE and KELLER.

Section 1425.— **Construction.** In the event of a dispute between the Parties as to the meaning of terms, phrases, or specific provisions of this Agreement, the authorship of this Agreement will not be cause for this Agreement to be construed against any Party nor in favor of any Party.
Additional Parties.—Additional parties may be added to this agreement with the mutual consent of the governing bodies of COLLEYVILLE and KELLER respectively.

Section 1536.— **Non-Exclusivity.** This Agreement does not create and should not be regarded as an exclusive arrangement between the Parties.~~This Agreement has been approved by the governing bodies of COLLEYVILLE and KELLER respectively. The execution of this Agreement has been authorized by an act of the governing bodies of COLLEYVILLE and KELLER at a duly called and posted meeting. This Agreement shall become effective at 12:00 a.m. on October 1, 2012 (the "Effective Date"). Any tickets or citations issued prior to the Effective Date shall be adjudicated in the municipality in which the incident arose or the citation or ticket was issued.~~

Section 14. **Nondiscrimination.** The Parties agree not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification. The Parties will comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement. Violation of this section is a material breach of the Agreement and grounds for cancellation, termination, or suspension by the Parties, in whole or in part.

Section 15. **Waiver.** Failure to insist upon strict compliance with any terms, covenants, or conditions of this Agreement is not a waiver of such. A waiver by a Party of any terms or conditions of this Agreement is not deemed or construed to be a waiver of any other term or condition, nor is the waiver of any breach or default by a Party under this Agreement to be deemed or construed to constitute a waiver of any subsequent breach or default, whether of the same or any other term or condition of this Agreement. Any waiver of a breach or default under this Agreement must be done in writing and signed by the authorized representatives of the Parties.

Section 16. **Files.** All files and other documents maintained by a Party relating to this Agreement or the services provided pursuant to this Agreement belong to that Party. On request, such files will be made available for review by the other Part(ies) through a duly authorized representative during normal business hours.

Section 17. **Public Records Requests.** Each Party is responsible for timely and adequately responding to requests for records addressed to it under the Texas Public Information Act or other demand for disclosure.

Section 18. **Survival of Certain Provisions.** Any term of this Agreement that by reasonable implication contemplates continued performance, rights, or compliance beyond its expiration or termination, survives the Agreement and continues to be enforceable. Without limiting the generality of this provision, the Parties' obligation to indemnify survives for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

Section 19. **Severability.** If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if

possible, the rights and obligations of the Parties are to be construed and enforced as if the Agreement did not contain that term.

Section 20. **Modification.** This Agreement may not be altered, amended, or modified except in writing, approved by the City Managers of the City of Brownsville and City of Harlingen.

Section 21. **Funding.** This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between Parties to this Agreement will be handled in accordance with applicable laws, regulations, and procedures. Except for requested reimbursement pursuant to Section 4(a), both Parties will provide for compensation of their own employees and operate and maintain their own equipment. Any expenditure of resources must be from current revenues available to the paying party.

Section 22. **Execution.** This Agreement is executed by each Party acting with authority granted, where required, by its governing body. This Agreement may be executed in counterpart originals. A copy of each such executed counterpart original will be delivered to each Party upon that Party's execution of a counterpart original

IN WITNESS WHEREOF, we have hereunto set our hands this the ____ day of _____, 2012~~2023~~, in duplicate originals.

CITY OF ~~KELLER~~BROWNSVILLE, TEXAS
~~COLLEYVILLE~~HARLINGEN, TEXAS

CITY OF

By: ~~P.H. McGrail~~Helen Ramirez, AICP
~~Gonzalez, CPM~~David Kelly
~~Mayor~~City Manager

By: Gabriel
MayorCity

By: ~~Dan O'Leary~~
City Manager

By: ~~Jennifer Fadden~~
City Manager

ATTEST:

ATTEST:

By: Yolanda (Yoli) Galarza-Gomez, TRMC ~~Sheila Stephens~~

By: Amanda Elizondo ~~Cynthia Singleton~~
City Secretary

-City Secretary

APPROVED AS TO FORM:

By: ~~L. Stanton Lowry~~ Guillermo (Will) S. Trevino

Mark Sossi ~~Matthew Boyle~~

~~- City Attorney for Keller~~

~~Colleyville~~

By:

~~City Attorney for~~



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Lupe Granado, Finance Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to adopt **Resolution Number 2023-117**, reviewing, amending and readopting all of the provisions listed in the documents titled, "City of Brownsville, Texas Amended Investment Policy" and "City of Brownsville, Texas, Amended Investment Strategy Statement". (Financial Services)

Summary:

The Texas Government Code, Chapter 2256, of the Public Funds Investment Act, Subchapter A, Authorized Investments for Governmental Entities, Section 2256.005 of Subsection (e) states, "the governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies."

We are asking that the City Commission re-adopt by resolution the investment and strategy statement policy. The following Changes were made to the Investment Policy & Strategy.

- Update authority to Invest D-1 (Pg. 12):
Added – Deputy City Manager
- Update Active Bank accounts from the Operating Funds Accounts Listing. (Pg. 19):
Added - Opioid Abatement Trust Fund
- Update Active Bank accounts from the Construction and Capital Improvement Funds Accounts Listing. (Pg. 21 b.):
Added - 2023 C.O. Fund
Removed 2008 Airport C.O. (GBIC)
Removed 2019 PPFCO Fund

Project Scope and Analysis:

Funding:

Source: N/A

Amount:

Local Contribution if Applicable:

Recommendation:

Staff recommends approval.

Commission Pillar:

Governance Pillar

Attachments:

1. 2. Investment Resolution 11-02-23
2. COB Inv & Strat Policy 11-02-2023

RESOLUTION 2023-117

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS REACCEPTING, REAPPROVING, REVIEWING OR AMENDING AND RE-ADOPTING ALL OF THE PROVISIONS LISTED IN THE DOCUMENTS ENTITLED “CITY OF BROWNSVILLE, TEXAS AMENDED INVESTMENT POLICY” AND “CITY OF BROWNSVILLE, TEXAS AMENDED INVESTMENT STRATEGY STATEMENT” WHICH ARE ATTACHED HERETO AND MADE A PART HEREOF.

WHEREAS documents entitled “City of Brownsville, Texas Amended Investment Policy,” and “City of Brownsville, Texas Amended Investment Strategy Statement” dated November 07, 2023, have been reviewed establishing the guidelines to be used by the City for investing the City’s idle cash.

NOW, THEREFORE, BE IT RESOLVED THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS:

Section 1. That from and after the effective date of this resolution the attached City of Brownsville, Texas Amended Investment Policy and Amended Investment Strategy Statement are hereby reaccepted, reviewed, reapproved, and readopted.

Section 2. This resolution shall be and become effective immediately upon its adoption by the City Commission.

ADOPTED, approved, and accepted by the City Commission at a regular meeting thereof held on Tuesday, November 7, 2023.

JOHN COWEN
MAYOR

ATTEST:

YOLANDA GALARZA
CITY SECRETARY



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Lupe Granado III, Finance Director
Date: November 2, 2023
Agenda: Investment Policy Review & Readoption

Summary:

The Texas Government Code, Chapter 2256, of the Public Funds Investment Act, Subchapter A, Authorized Investments for Governmental Entities, Section 2256.005 of Subsection (e) states, “the governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record and any changes made to either the investment policy or investment strategies.”

We are asking that the City Commission readopt by resolution the investment and strategy statement policy.

The following Changes were made to the Investment Policy & Strategy.

- Update authority to Invest D-1 (Pg. 12):

Added – Deputy City Manager

- Update Active Bank accounts from the Operating Funds Accounts Listing. (Pg. 19):

Added - Opioid Abatement Trust Fund

- Update Active Bank accounts from the Construction and Capital Improvement Funds Accounts Listing. (Pg. 21 b.):

Added - 2023 C.O. Fund
Removed 2008 Airport C.O. (GBIC)
Removed 2019 PPFCO Fund

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CITY OF BROWNSVILLE, TEXAS

**AMENDED INVESTMENT AND
STRATEGY STATEMENT POLICY**

READOPTED NOVEMBER 07, 2023

PREFACE

It is the policy of the City of Brownsville, Texas and its component units, that in regards to the safety and risk of investments, all available funds shall be invested in conformance with state and federal regulations, applicable bond resolution requirements, adopted investment policy, and adopted investment strategy.

Effective cash management is recognized as essential to good fiscal management. Comprehensive cash management and effective strategy development will be pursued to take advantage of interest earnings as practical and material revenue to all City of Brownsville funds. The City of Brownsville's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with this policy.

Investments shall be made with the primary objective of:

- Preservation of capital,
- Safety of city funds,
- Maintenance of sufficient liquidity,
- Maximization of return within acceptable risk constraints, and
- Diversification of investments.

I. PURPOSE

A. Formal Adoption

This Investment Policy is authorized by the City of Brownsville in accordance with Chapter 2256, of the Texas Government Code, the Public Funds Investment Act.

B. Scope

This Investment Policy applies to all of the investment activities of the City of Brownsville, Texas and its component units. This policy establishes guidelines for: (1) who can invest the City of Brownsville funds, (2) how the City of Brownsville funds will be invested, and (3) when and how a periodic review of investments will be made. In addition to this policy, bond funds (as defined by the Internal Revenue Service) shall be managed in accordance with their issuing documentation and all applicable state and federal law.

All investments made with the City of Brownsville funds prior to the adoption of this Investment Policy shall be held or liquidated as determined by the Investment Committee to be in the best interest of the financial well-being of the City of Brownsville. Additionally, the City of Brownsville is not required to liquidate any investment that was authorized at the time of purchase. Investments which become unauthorized may be retained until the investment terms are met as long as due care and prudence are exercised.

C. Review and Amendment

The City Commission shall review this policy annually. Amendments must be approved by the Investment Committee and adopted by the City Commission.

D. Investment Strategy

In conjunction with the annual policy review, the City Commission shall review the separate written investment strategy for each of the City of Brownsville's funds. The investment strategy must describe the investment objectives for each particular fund according to the following priorities:

- 1) Investment suitability,
- 2) Preservation and safety of principal,
- 3) Liquidity,
- 4) Marketability prior to maturity of each investment,
- 5) Diversification, and
- 6) Yield.

II. INVESTMENT OBJECTIVES

A. Safety of Principal

The primary objective of all investment activity is the preservation of capital and the safety of principal in the overall portfolio. Each investment transaction shall seek to ensure first that capital losses are avoided, whether they are from securities defaults or erosion of market value.

B. Maintenance of Adequate Liquidity

The investment portfolio will remain sufficiently liquid to meet the cash flow requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements, by investing in securities with active secondary markets, and by maintaining appropriate portfolio diversification.

III. INVESTMENT POLICIES

A. Authorized Investments

The Public Funds Investment Act authorizes investments described below as eligible securities for the City of Brownsville. The City of Brownsville's funds governed by this policy may be invested in:

1. **Obligations of Governmental Entities.** Except for the items listed in (f) below, the following are authorized investments for obligations of governmental agencies:
 - a. Obligations of the United States or its agencies and instrumentalities;
 - b. Direct obligations of the State of Texas or its agencies and instrumentalities;
 - c. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;
 - d. Obligations of states, agencies, counties, cities, and other political subdivisions of any State having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than "A" or its equivalent; and

- e. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States
- f. The following *are not authorized investments* for the City of Brownsville:
 - (1) Obligations whose payments represent the coupon payments on the outstanding principal balance of the underlying mortgage-backed Security collateral and pays no principal (Interest Only CMO);
 - (2) Obligations whose payments represent the principal stream of cash Flow from the underlying mortgage-backed security collateral and bears no interest (Principal only CMO);
 - (3) Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
 - (4) Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in the Market index (Inverse Floater CMO).

The City of Brownsville expressly prohibits the acceptance for collateralized deposits interest-only and principal-only mortgage backed securities and collateralized mortgage obligations with stated final maturities in excess of ten years or with coupon rates that float inversely to market index movements. Furthermore, should an investment be subsequently downgraded below its required rating, all prudent measures will be taken to liquidate the investment.

2. Certificates of Deposit. Certificates of deposit will be secured competitively through State and national banks and savings and loan associations that are:

- a. Guaranteed or insured by the Federal Deposit Insurance Corporation or its successors; or
- b. Secured by obligations that are described by 1 above, which are intended to include all direct Federal agency or instrumentality issued mortgage backed securities, but excluding those mortgage backed securities of the nature described in 1.f. above, that have a market value of not less than the principal amount of the certificates; or
- c. Secured in any other manner and amount provided by law for deposits of the City of Brownsville; or
- d. Governed by a Depository Agreement as described in B.4. of this section that complies with Federal and State regulation to properly secure a Pledged security interest.

- 3 **CDARS Banks of Texas.** CDARS (Certificate of Deposits Account Registry) Banks of Texas are network banks in Texas that offer certificates of obligations (CD) in increments below the standard FDIC insurance maximum (\$250,000) so that both principal and interest are eligible for FDIC insurance. Everything is handled through a CDARS Network member to the City's choice. Financial institutions that can offer CDARS are members of a unique network. When the City places a large deposit with A CDARS Network member, that institution uses the CDARS service to place the City's funds into CDs issued by other members of the CDARS Network.
4. **Repurchase Agreements.** Fully collateralized repurchase agreements with a defined termination date that are placed with a primary government securities dealer or financial institution doing business in the State of Texas, and are secured by obligations of the United States or its agencies and instrumentalities which are pledged in the City of Brownsville's name and deposited with a third party selected and approved by the City of Brownsville.
5. **Commercial Paper.** Commercial paper with a stated maturity date of 270 days or less from the date of its issuance and is rated not less than "A-1 or "P-1" or an equivalent rating by at least two nationally recognized credit rating agencies.
6. **Mutual Funds.** Money market mutual funds regulated by the Securities & Exchange Commission with a dollar weighted average portfolio maturity of 90 days or less that fully invest dollar-for-dollar all the City of Brownsville's funds without sales commissions or loads and whose investment objectives include seeking to maintain a stable net asset value of \$1 per share. The City of Brownsville may not invest funds under its control in an amount that exceeds 10% of the total assets of any individual money market mutual fund or exceeds 15% of its monthly average fund balance excluding bond proceeds and reserves and other funds held for debt service in money market mutual funds.
7. **Investment Pools.** Eligible investment pools organized and operating in compliance with the Public Funds Investment Act that have been authorized by the City Commission and whose investment philosophy and strategy are consistent with this policy and the City of Brownsville's ongoing investment strategy. The City will monitor investment pool ratings on a regular basis.
8. **Interest Bearing Demand Accounts.** Fully collateralized demand accounts held at the at City's depository.

The City of Brownsville expressly allows money market mutual funds and eligible investment pools, authorized by the City Commission to invest to the full extent permissible within the Public Funds Investment Act.

B. Protection of Principal

The City of Brownsville shall seek to control the risk of loss due to the failure of a security issuer of grantor. Such risk shall be controlled by investing only in the safest types Of securities as defined in the policy; by collateralization as required by law and through portfolio diversification by maturity and type.

The purchase of individual securities shall be executed “delivery versus payment” (DVP) through the City of Brownsville’s Safekeeping Agent. By so doing, the City of Brownsville’s funds are not released until the City of Brownsville has received, through the Safekeeping Agent, the securities purchased.

1. Diversification by Investment Type

Diversification by investment type shall be maintained by ensuring an active and efficient secondary market in portfolio investments and by controlling the market and opportunity risks associated with specific investment types.

Diversification by investment type shall be established by the following maximum percentages of investment type to the total City of Brownsville’s investment portfolio at the time of each investment transaction:

a. U.S. Treasury Bills/Notes/Bonds	50%
b. U.S. Agencies & Instrumentalities	50%
c. States, Counties, Cities & Other	25%
d. Certificates of Deposit	75%
e. CDARS of Texas Banks	75%
f. Money Market Mutual Funds	75%
g. Eligible Investment Pools	75%
h. Repurchase Agreements	75%
i. Commercial Paper	50%
j. Interest Bearing Demand Accounts	100%

Bond proceeds may be invested in a single security or investment if the Investment Committee determines that such an investment is necessary to comply with federal arbitrage restrictions or to facilitate arbitrage record keeping and calculation.

2 Diversification by Investment Maturity

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Maturity guidelines By fund are as follows: (Investment transactions made prior to the adoption of the policy are not subject to these guidelines)

a. Operating Funds

The weighted average days to maturity for the operating fund portfolio shall be less than 270 days and the maximum allowable maturity shall be two years. Certificates of Deposits may have term maturities of up to five (5) years.

b. Construction and Capital Improvement Funds

The investment maturity of construction and capital improvement funds shall generally be limited to the anticipated cash flow requirement or the “temporary period,” as defined by federal tax law. During the temporary period bond proceeds may be invested at an unrestricted yield. After the expiration of the temporary period bond proceeds subject to yield restriction shall be invested considering the anticipated cash flow requirements of the funds and market conditions to achieve compliance with the applicable regulations. The maximum maturity for all construction or capital improvement funds shall be five years.

c. Debt Service Funds

Debt Service Funds shall be invested to ensure adequate funding for each consecutive debt service payment. The Investment Officers shall invest in such manner as not to exceed an “unfunded” debt service date with the maturity of any investment. An unfunded debt service date is defined as a coupon or principal payment date that does not have cash or investment securities available to satisfy said payment.

The City of Brownsville’s funds that are considered “bond proceeds” for arbitrage purposes will be invested using a more conservative approach than the standard investment strategy when arbitrage rebate rules require rebate excess earnings. All earnings in excess of the allowable arbitrage earnings (“rebate liability”) will be segregated and made available for any necessary payments to the U.S. Treasury.

3. Ensuring Liquidity

Liquidity shall be achieved by anticipating cash flow requirements, by investing in security with active secondary markets and by investing in eligible money market mutual funds and local government investment pools.

A security may be liquidated to meet unanticipated cash requirements, to redeploy cash into other investments expected to outperform current holdings, or otherwise to adjust the portfolio.

4. Depository Agreements

Consistent with the requirements of state law, the City of Brownsville requires all bank and savings and loan association deposits to be federally insured or collateralized with eligible securities. Financial institutions serving as the City of Brownsville's depositories will be required to sign a Depository Agreement with the City of Brownsville and the City of Brownsville's safekeeping agent. The safekeeping portion of the agreement shall define the City of Brownsville's rights to the collateral in case of default bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The agreement must be in writing;
- The agreement has to be executed by the depository and the City of Brownsville contemporaneously with the acquisition of the asset;
- The agreement must be approved by the Board of Directors or the loan committee of the Depository and a copy of the meeting minutes must be delivered to the City of Brownsville; and
- The agreement must be part of the depository's "official record" continuously since its execution.

a. Allowable Collateral

In accordance with state law and the depository contract, all demand deposits and all time deposits will be collateralized by the pledging of investment securities or irrevocable letters of credits. Eligible securities for collateralization of deposits are defined by the Public Funds Collateral Act, as amended and meet the constraints of this policy.

b. Collateral Levels

The market value of the principal portion of collateral pledged for all demand deposits and all time deposits must at all times be 102% or greater than the par value of pledging securities or irrevocable letters of credits. The City Manager, Chief Financial Officer, and/or Director of Finance or his designee must approve the security prior to its pledging. Pledged securities shall always be held by a third party and evidenced by a current safekeeping receipt.

c. Monitoring Collateral Adequacy

The City of Brownsville shall require monthly reports with market values of pledged securities from all financial institutions with which the City of Brownsville has collateralized deposits. The Investment Officers will monitor

Adequacy of collateralization levels to verify market values and total collateral positions.

d. Additional Collateral

If the collateral pledged for a deposit falls below the par value of the deposit, plus accrued interest and less FDIC insurance, the institution holding the deposit will be notified by the Investment Officers and will be required to pledge additional securities no later than the end of the next succeeding business day.

e. Security Substitution

Collateralized deposits often require substitution of securities. Any financial institution requesting substitution must contract the Investment Officers for approval and settlement. The substituted security's value will be calculated and substitution approved if the substitution maintains a pledged value equal to or greater than the required security level. An Investment Officer must provide written notification of the decision to the bank or the safekeeping agent holding the security prior to any security release. Substitution is allowable for all transactions, but should be limited, if possible to minimize potential administrative problems and transfer expense. The Investment Officers may limit substitution and assess appropriate fees if substitution becomes excessive or abusive.

5. Safekeeping

The City of Brownsville shall contract with a bank or banks for the safekeeping of securities either owned by the City of Brownsville as a part of its investment portfolio or as part of its depository agreements.

a. Safekeeping of Deposit Collateral

A third-party banking institution must hold all collateral securing bank and savings and loan deposits acceptable to and under contract with the City of Brownsville or by the Federal Reserve Bank.

C. Investment Advisors and Investment Providers

Investment Advisors shall adhere to the spirit, philosophy and specific term of this Policy and shall invest within the same "Standard of Care." Investment Providers shall adhere to the spirit and philosophy of this Policy and shall avoid recommending or suggesting transactions outside that "Standard of Care."

The Investment Officers will perform selection of Investment Advisors and Investment Providers. The Investment Officers will establish criteria to evaluate Investment Advisors and Investment Providers including:

- a. Adherence to the City of Brownsville policies and strategies.
- b. Investment performance and transaction pricing within accepted risk constraints,
- c. Responsiveness to the City of Brownsville's request for services, information and open communication.
- d. Understanding of the inherent fiduciary responsibility of investing public funds,
- e. Similarity in philosophy and strategy with the City of Brownsville's objectives,
- f. Investment officers must suggest and monitor broker/dealers certification, and
- g. Investment officers must monitor broker/dealers credit ratings.

Selected Investment Advisors and Investment Providers shall provide timely transaction confirmations and monthly activity reports.

Business organizations eligible to transact investment business with the City of Brownsville shall be presented a written copy of this Investment Policy. Additionally, the registered principal of the business organization seeking to transact investment business shall execute a written instrument substantially to the effect that the registered principal has:

- 1) Received and thoroughly reviewed this Investment Policy; and
- 2) Acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities with the City of Brownsville.

The City of Brownsville shall not enter into an investment transaction with a business organization prior to receiving the written instrument described above.

D. Responsibility and Controls

1. Authority to Invest

The City of Brownsville's Deputy City Manager, Chief Financial Officer, Finance director, and two Financial Services accountants are the "Investment Officers" of the City of Brownsville: Acting as a committee, the Investment Officers are authorized to deposit, withdraw, invest, transfer, execute documentation, and otherwise manage the City of Brownsville's funds according to this policy. The Investment Officers may authorize one Investment Officer to deposit, withdraw or transfer funds out of or in to an investment pool or money market mutual fund in order to meet daily operating needs of the City of Brownsville.

The Investment Officers shall be the Investment Committee. The Investment Committee shall review the investment portfolio's status and performance, determine and implement appropriate portfolio adjustment, oversee the City of Brownsville's Investment Advisor, monitor compliance with the Investment Policy and Investment Strategy Statement, and perform other duties as necessary to manage the City of Brownsville's funds.

The Investment Officers shall attend at least one training session within twelve months of assuming these duties that addresses investment controls, security risks, strategy risks, market risks, and compliance with the Public Fund Investment Act. All investment officers of the City shall also attend an investment training session not less than once in a two-year period (training cycle begins on the first day of the fiscal year) and receive not less than eight hours of instruction from an independent source endorsed by the Governmental Treasurers Organization of Texas, Texas Municipal League, or the University of North Texas Center for Public Management.

2. Prudent Investment Management

The designated Investment Officers shall perform their duties in accordance with the adopted Investment Policy and internal procedures. In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the investment of all funds over which the Investment Officer had responsibility, rather than the prudence of a single investment shall be considered. Investment Officers acting in good faith and in accordance with these policies and procedures shall be relieved of personal liability.

3. Standard of Care

The standard of care used by the City of Brownsville shall be the "prudent investor rule" and shall be applied in the context of managing the overall portfolio within the applicable legal constraints. The Public Funds Investment Act states:

"Investments shall be made with judgment and care, under circumstances then prevailing, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived."

4. Standards of Ethics

The designated Investment Officers shall act as custodians of the public trust avoiding any transaction, which might involve a conflict of interest, the appearance of a conflict of interest, or any activity, which might otherwise discourage public confidence. Investment Officers shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Additionally, all Investment Officers shall file with the Texas Ethics Commission and the City of Brownsville a statement disclosing any personal business relationship with an entity seeking to sell investments to the City of Brownsville or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the City of Brownsville.

6. Establishment of Internal Controls

The City of Brownsville's Investment Officers will maintain a system of internal controls over the investment activities of the City of Brownsville. These internal controls will ensure that the Investment Officers follow all policy guidelines and include the following internal control activities:

- 1) Written procedures that outline making investment decisions as well as transaction initiation, wire transactions, recording transactions, and investment safekeeping.
- 2) A documented delegation of authority outlining responsibilities and duties within procedures that require approvals and the appropriate approval authorities.
- 3) Segregation of duties to reduce opportunities for error and fraud.

7. Reporting

Investment performance will be monitored and evaluated by the Investment Officers. The Investment Officers will provide a quarterly comprehensive report signed by all Investment Officers to the City Commission. This investment report shall:

- 1) Describe in detail the investment position of the City of Brownsville,
- 2) State the reporting period beginning book and market value additions or changes to the book and market value during the period and ending book and market value for the period of each pooled fund group,
- 3) State the reporting period beginning book market value and reporting Period ending book and market value for each investment security by asset type and fund type,
- 4) State the maturity date of each investment security,

- 5) State the fund for which each investment security was purchased, and
- 6) State the compliance of the investment portfolio with the City of Brownsville Investment Policy and strategy and the Public Funds Investment Act.

The City of Brownsville, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the City of Brownsville's Investment Policy and Investment Strategy Statement.

**CITY OF BROWNSVILLE
CURRENT LIST OF INVESTMENT BROKERS
AUTHORIZED TO DO BUSINESS WITH THE
CITY OF BROWNSVILLE AS OF
JANUARY 16, 2018**

First Community Bank-Brownsville

Wells Fargo

PNC Bank

TexPool Investment Pool

Lone Star Investment Pool

Local Government Investment Cooperative (“LOGIC”)

Texas Class Investment Pool

TexasTERM Local Government Investment Pool

Piper Jaffray

Cantor Fitzgerald

Global Financial Securities

Stifel Nicolaus

JP Morgan

Oppenheimer

Goldman Sachs

Bank of America Merrill Lynch

First Tennessee Financial

TD Ameritrade Institutional TCG Advisory Services

CITY OF BROWNSVILLE, TEXAS
AMENDED INVESTMENT STRATEGY STATEMENT
READOPTED NOVEMBER 07, 2023

PREFACE

It is the policy of the City of Brownsville and its component units, that in regards to the safety and risk of investments, all available funds shall be invested in conformance with state and federal regulations, applicable bond resolution requirements, adopted investment policy, and adopted

In accordance with the Public Funds Investment Act, the City of Brownsville investment strategies shall address the following priorities (in order of importance):

- Understanding the suitability of the investment to the financial requirements of the City of Brownsville and its component units,
- Preservation and safety of principal,
- Liquidity,
- Marketability of the investment prior to maturity,
- Diversification of the investment portfolio, and
- Yield.

Effective investment strategy development coordinates the primary objectives of the City of Brownsville's Investment Policy and cash management procedures to enhance interest earnings and reduce investment risk. Aggressive cash management will increase the available "investment period" and subsequently interest earnings. Maturity selections shall be based on cash flow and market conditions to take advantage of various interest rate cycles. The City of Brownsville's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with the Investment Policy.

Each major fund type has varying cash flow requirements and liquidity needs. Therefore specific strategies shall be implemented considering the fund's unique requirements. The City of Brownsville's funds shall be analyzed and invested according to the following major fund types:

- a. Operating Funds,
- b. Construction and Capital Improvement Funds, and
- c. Debt Service Funds.

INVESTMENT STRATEGY

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Investment guidelines by fund-type are as follows:

a. Operating Funds

The City of Brownsville's accounts included are:

- General Fund
- Street & Drainage Maintenance Fund
- Capital Outlay Fund
- Event Center Fund
- Fleet & Facility Service Fund
- Enterprise Applications Fund
- Library Credit Card
- COB Credit Card
- West Morrison Road PID
- PID Fund
- GBIC Fund
- Convention & Tourism Fund
- CDBG Housing Notes
- Community Development Fund
- Planning Non-CDBG Grants Fund
- Brownsville Comm. Improvement Corp. Fund
- Municipal Housing Finance Corp. Fund
- BPD Federal Forfeiture Fund
- BPD Forfeiture Fund

- Landfill Tipping Fee Increase Fund
- Airport Fund
- Bridge Fund
- Motor Vehicle Parking System Fund
- Public Transit Fund
- Brownsville Golf Center Fund
- Employee Benefit Fund
- Employee Benefit Fund TML
- Sick/Annual Leave Fund
- Workers' Compensation Fund
- Payroll Account Fund
- Accounts Payable Fund
- Sports Park Fund
- American Rescue Plan Fund
- BCIC Revolving Loan Fund
- OPEB Trust Fund
- Opioid Abatement Trust Fund
- Other Operating Funds

Suitability - Any investment eligible in the Investment Policy is suitable for the Operating Funds.

Safety of Principal - All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will however occur, by managing the weighted average days to maturity for the Operating Fund portfolio to less than 270 days and restricting the maximum allowable maturity to two years, the price volatility of the overall portfolio will be minimized.

Marketability- Securities with active and efficient secondary markets are necessary in

the event of an unanticipated cash requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than a quarter of a percentage point shall define an efficient secondary market.

Liquidity - The Operating Fund requires the greatest short-term liquidity of any of the fund types. Short-term investment pools and money market mutual funds shall provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities shall be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City of Brownsville. Diversifying the appropriate maturity structure out through two years will reduce market cycle risk.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted rolling three-month Treasury bill portfolio shall be the minimum yield objective.

b. Construction and Capital Improvement Funds

The City of Brownsville’s accounts included are:

- Streetscape Project Fund
- Street Improvement Fund
- Capital Projects Fund
- Airport Construction Fund
- Airport Construction II Fund
- Airport Construction III Fund
- Airport PFC Fund
- Infrastructure Maintenance Fund
- 2008 C.O. Fund
- 2012 C.O. Fund
- 2015 C.O. Fund
- 2016 C.O. Fund
- 2017 C.O. Fund

- 2018 Tax Note
- 2019 C.O. Fund
- 2020 C.O. Fund
- 2020A C.O. Fund
- 2021 C.O. Fund
- 2022 C.O. Fund
- 2023 C.O. Fund
- TIRZ Fund
- Other Capital Project or Construction Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Construction and Capital Improvement Funds.

Safety of Principal - All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will however occur, by managing the Construction and Capital Improvement Fund's portfolio to exceed the anticipated expenditure schedule the market risk of the overall portfolio will be minimized.

Marketability - Securities with active and efficient secondary market are necessary in the event of an unanticipated cash requirement. Historical market "spreads" between the bid and offer prices of a particular security-type of less than a quarter of a percentage point shall define an efficient secondary market.

Liquidity - The City of Brownsville's funds used for construction and capital improvement programs have reasonably predictable draw down schedules. Therefore, investment maturities shall generally follow the anticipated cash flow requirements. Investment pools and money market mutual funds shall provide readily available funds generally equal to one month's anticipated cash flow needs, or a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds and other construction and capital improvement funds. With bond proceeds, if investment rates exceed the applicable arbitrage yield, the City of Brownsville's is best served by locking in most investments. If the arbitrage yield cannot be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in

shorter and larger lumps. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield with any the City of Brownsville's funds.

Yield - Achieving a positive spread to the applicable arbitrage yield is the desired objective for bond proceeds. Non-bonded proceeds and capital project funds will target a rolling portfolio of three-month treasury bills shall be the minimum yield objective.

C. Debt Service Funds

The City of Brownsville's accounts included are:

- General Non-bonded Debt Service Fund
- Debt Service Bond Fund
- BCIC Debt Service Fund
- BCIC Sales Tax Reserve Fund
- Other Debt Service Funds

Suitability - Any investment eligible in the investment policy is suitable for the Debt Service Fund.

Safety of Principal - All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will however occur, by managing the Debt Service Fund's portfolio to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

Marketability-Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash requirement is not probable.

Liquidity - Debt service funds have predictable payment schedules. Therefore investment maturates shall not exceed the anticipated cash flow requirements. Investment pools and money market mutual funds shall provide a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions influence the attractiveness of fully extending maturity to the next "unfounded" payment date. Generally, if investment rates are trending down, the City of Brownsville is best served by locking in most investments. If interest rates are flat or trending up, then concurrent market conditions will determine the attractiveness of extending maturity or investing in shorter alternatives. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury bill portfolio shall be the minimum yield objective.



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Doro Garcia, Public Works/Engineer Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve the proposal from SCS Engineers to assist in the preparation of a Request for Proposal (RFP) in implementing a landfill gas-to-energy (LFGE) project using gas produced by the City of Brownsville Landfill in the amount of \$62,500. #LES-63-0703 (Engineering and Public Works Department)

Summary:

The Landfill Gas Collection System consists of 57 wells that vacuum methane gas to the flare system. The landfill Gas Collection System flares annually at an estimated 425,000,000 square cubic feet (scf). The Landfill Gas to Energy RFP will assess the effectiveness of the current Gas Collection System to acquire bids from third-party developers to implement a landfill gas-to-energy (LFGE) project that will positively impact the City of Brownsville Landfill's methane gas emissions and economic development of the City Landfill.

Project Scope and Analysis:

Project Meetings
Recovery Model Analysis and Projections
RFP Development
Bid Support Services
Port-Response Services
On-call support for City Requested Services

Funding:

Source: 806-8113-9725-50 Landfill Improvements FLARE Project \$62,500

Amount: \$62,500.00

Local Contribution if Applicable: 806-8113-9725-50 - Landfill Improvements Flare Project \$62,500

Recommendation:

City of Brownsville, Texas

1001 E. Elizabeth St., P.O. Box 911, Brownsville, Texas 78522 Telephone: 956-548-6007 Fax: 956-546-4021 www.cob.us

The Engineering and Public Works Dept. recommends approval.

Commission Pillar:

Economic Development

Attachments:

1. Proposal 100323 LFG Prep and Task Auth-combined (1)

October 3, 2023

Mr. Doroteo Garcia Jr., P.E., CFM, RAS
Director of Public Works
City of Brownsville
6035 Jaime Zapata Avenue
Brownsville, Texas 78521

Re: Request for Proposal (RFP) Preparation
Landfill Gas-to-Energy (LFGE) Project
City of Brownsville Landfill

Dear Mr. Garcia:

SCS Engineers is pleased to provide the City of Brownsville with this proposal to assist in the preparation of a Request for Proposal (RFP) to solicit bids from third-party developers to implement a landfill gas-to-energy (LFGE) project at the City of Brownsville Landfill.

SCOPE OF SERVICES

We have divided the overall services for this work into the following six (6) tasks, which are discussed in more detail below.

Task 1 – Kick-off Meeting

This task includes performance of a project kick-off meeting between SCS staff (up to two staff members onsite), you and your staff, and other SCS team members by conference call (as needed) to confirm attributes of the proposed RFP. Following the meeting, SCS will provide meeting minutes documenting the decisions made related to the RFP. Also, during the meeting SCS will request or obtain any additional site-specific background data that SCS does not have from prior work at the landfill for completion of the RFP.

Task 2 – LFG Recovery Model Analysis and Projections

LFG recovery projections are provided in the RFP for potential responders to use for developing their proposals and estimating project revenues and facility requirements. Experienced LFGE project developers are aware of the reliability of LFG recovery projections prepared by SCS, and the City can expect to receive proposals with similar assumptions regarding the potential availability of methane flows to support the projects.

SCS last prepared LFG recovery projections for the City in May 2012 (see Report: Landfill Gas (LFG) Recovery Projection). Eleven years of new waste disposal and LFG collection data will need to be evaluated for use in preparing the LFG model. Extensive improvements in LFG recovery at the landfill have occurred since 2012, including a major expansion of the gas collection and control system (GCCS). SCS will compile, review, and incorporate into the empirically-calibrated LFG recovery model information on the existing LFG collection system design and operations, and actual LFG flow data. SCS will collect public information, obtain information in our files from prior work performed for the

City, and request any additional data and files needed for the study, including the following information:

- Annual total waste disposal rates and amounts or percentages of municipal solid waste (MSW), construction and demolition (C&D) waste, sludge, and inert waste categories disposed at the landfill from the opening year through June 2023.
- Estimated total site capacity and projected future total waste disposal rates through closure of the landfill. The remaining site capacity reported by the Texas Commission on Environmental Quality (TCEQ) will be used along with updated information provided by the City on any planned capacity expansions.
- Updated information on the timing of historical and projected future disposal in different disposal cells, and whether extraction wells are installed in each area and contributing to collected LFG available for proposed projects. Our prior report indicated that the 2012 landfill consisted of two pre-Subtitle D disposal areas without wells installed, Cells 1 and 2 with wells installed, and Cell 3 (active area) with no wells installed. Future Cells 4 through 11 were planned at that time.
- Wellfield monitoring data for 2022 and 2023, liquid level monitoring data for 2022 and 2023 (if available), and actual LFG flow rates and methane content for 2020 through September 2023.
- Site drawings showing the current and planned layout of the GCCS, information on the timing and extent of future wellfield expansions, plans for new LFGE or direct use project development, and methane quality requirements for proposed RNG projects.

SCS will assess the effectiveness of the existing GCCS and develop estimates of collection system coverage based on the following: estimated site conditions at the landfill, recent historical landfill gas recovery data, and a review of data on the design, operations, and maintenance of the gas system. SCS will prepare the LFG recovery model with two alternative sets of future collection system coverage estimates and LFG recovery forecasts associated with the beneficial-use of the LFG, including one for direct-use and one for implementing high-Btu gas conversion/generation.

SCS will provide the LFG recovery projections in a letter report, which will include the following items:

1. A summary of data and assumptions used to develop the LFG recovery projections.
2. A presentation of historical waste disposal and LFG recovery data, and a discussion of the basis for estimates of historical and projected collection system coverage.
3. Tables providing the following information for the period covering the year the landfill opened through 2060:
 - Historical and projected future waste disposal rates.
 - Projected LFG recovery potential.
 - Collection system coverage estimates under two alternative future project scenarios.
 - Projected LFG recovery with the existing and planned collection systems under each scenario.

4. Graph showing the following information for the period covering the year the landfills opened through 2050:
 - Projected LFG recovery potential.
 - Projected LFG recovery with the existing and planned collection system under each scenario.

SCS will provide a draft of the LFG recovery projections report for the City's review/comment, and SCS will have a conference call with you and your staff to discuss the report. Following incorporation of comments, SCS will prepare a final report signed/sealed by a professional engineer licensed in the State of Texas.

Task 3 – RFP Development

The task includes the development of the LFGE RFP. During this task, we will work with you and City staff to outline general requirements and City preferences for the RFP scope of work. This will include, but is not limited to the following:

- Who will operate and maintain the gas collection and control system (GCCS) and the broader division of other possibly overlapping responsibilities (and how much of that to specify in the RFP), including compliance reporting;
- Set the parameters for how the City will be compensated for the landfill gas; on a specific cost per MMBtu, percent of gross revenues, etc.;
- Contract terms;
- Milestones for project development and liquidated damages for missed milestones;
- Pre-qualification requirements, if any, for respondents;
- Landfill and possibly project information to be included with the RFP, including location where the selected developer could install/construct plant, equipment, and/or office during the project term (i.e., lease boundary); and
- City RFP timeline, structure, insurance, contract and other required elements.

Based on the information gathered above, and through interfacing with your team, we will develop the RFP scope of work. The RFP as whole will be structured consistent with City's standard bid documents and formatting requirements. As such, SCS assumes the City will provide the City's standard bid document template, which SCS will complete under the guidance from the City's purchasing department. The RFP, including scope of work, will include, but not be limited to the following elements:

- Introduction with explanation of the City's goals and contact personnel;
- Site information, GCCS flow and quality data, LFG recovery projection;
- RFP schedule: due date, pre-submittal visits, questions, etc.;
- Required information and forms;
- Evaluation criteria; and
- Contract terms.

A draft of the RFP document will be provided for the City's review/comment. SCS will participate in a conference call with the City to discuss the document and any City comments. Following incorporation of comments, SCS will prepare the final RFP document.

Task 4 – Bid Support Services

This task has been included to provide bid support services, including technical support during the bidding phase. Services included in this task include, but are not limited to, the following specific activities:

- Review questions and inquiries from potential bidders prior to the pre-proposal meeting and compile and develop responses.
- Attendance and participation (on-site) during a pre-proposal meeting. Develop meeting minutes and submit to the City.
- Assistance with responses to technical questions from potential proposers prior to and after the pre-proposal meeting.
- Prepare addenda, as needed, for issuing responses to questions and requests for clarification or information prior to and after the pre-proposal meeting.

Prior to submitting responses to questions or issuing addenda, SCS will prepare drafts for you and your team to review and provide comments. SCS will issue responses to questions or issue addenda on the City's behalf after incorporation of comments or work with the City staff or purchasing to perform the same.

Task 5 – Post-Response Support Services

For this task, SCS will provide post-response support services including assisting City staff with review and evaluation of received responses to the RFP. These services will include the following:

- SCS will conduct an analysis of proposals submitted in response to the RFP based on the established scoring criteria. This review may also generate additional questions for the respondents. After these questions have been answered as needed, SCS will help rank the respondents utilizing the evaluation criteria.
- During contract negotiations, SCS will be available via conference call to assist the City on an as-needed basis.
- Although we would not be able to provide legal advice, we will be able to provide technical and/or regulatory consulting as appropriate, during the review of the responses.

SCS will be available for discussion of the bid evaluation with the City by conference call. If an onsite meeting is required or requested by the City during this task, in-person meetings can be accommodated using the Task 6 budget.

Task 6 - On-Call Support for City-Requested Services (Optional)

This optional time-and-materials task is included in the event that, as part of our meetings or at the request of City staff, more meetings are needed above the two meetings included (see Tasks 1 and 4),

landfill gas sampling, or specific information or services is requested that was not part of the above scope of work. The budget of this task will only be utilized with the prior approval of the City.

FEE AND SCHEDULE

SCS proposes to perform Tasks 1, 2, and 3 on a lump basis and Tasks 4, 5, and 6 on a time-and-materials basis consistent with our attached fee schedule for the not-to-exceed fees provided in the following table.

Proposed Fee and Schedule

Task No.	Task Title	Proposed Fee	Schedule
1	Kick-off Meeting	\$8,000	2 weeks after NTP
2	LFG Recovery Model Analysis and Projections	\$12,500	6 weeks after Task 1
3	RFP Development	\$16,000	8 weeks after Task 2
4	Bid Support Services	\$10,500	Throughout bidding process
5	Post-Response Support	\$8,000	Throughout post-response process
Tasks 1-5 Total		\$55,000	-
6	On-Call Support for City-Requested Services (Optional)	\$7,500	As requested
Total Including Task 6		\$62,500	-

We appreciate this opportunity to provide this proposal to you. If you have any questions, please contact J. Roy Murray, P.E. at (817) 358-6156.

Sincerely,



J. Roy Murray, P.E.
Vice President
SCS ENGINEERS



Ryan Kuntz, P.E.
Vice President
SCS ENGINEERS

Attachment: Fee Schedule
Task Order Authorization Form

SCS ENGINEERS
TASK ORDER AUTHORIZATION FORM

CONTRACT NUMBER or DATED: October 3, 2023 **TASK ORDER NUMBER:** _____

CLIENT: Name City of Brownsville
Address P.O. Box 911
City Brownsville State Texas Zip Code 78521
Attn: Doroteo Garcia Jr., P.E., CFM, RAS

Signing of this Authorization by **City of Brownsville** and **SCS Engineers** (Hereinafter "SCS") authorizes SCS to complete the Services as described below under the terms and conditions of the contract identified above.

PROJECT NAME: The Services described below are to be provided by SCS in connection with a Project identified as follows:
Request for Proposal (RFP) Preparation Landfill Gas-to-Energy (LFGE) Project
City of Brownsville Landfill

SCOPE OF SERVICES: SCS will perform the Services indicated below:

X Services as described in attached correspondence dated October 3, 2023
_____ Services as described in attached Scope of Services dated _____
_____ Services described below: _____

Fee: \$62,500 as detailed in the attached correspondence dated October 3, 2023

Schedule: Commence: October 3, 2023 or upon receipt of notice to proceed, whichever is later
Complete: October 3, 2024 or upon completion of all tasks

Deliverables:
(Provide completion dates) See attached proposal dated October 3, 2023

City of Brownsville:

Signature _____
Name _____
Title _____
Date _____

SCS Engineers:

Signature J. Roy Murray
Name J. Roy Murray, P.E.
Title Vice President
Date October 3, 2023

APPROVED AS TO FORM

Guillermo S. Trevino
Guillermo (Will) S. Trevino
City Attorney
City of Brownsville, Texas



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Doro Garcia, Public Works/Engineer Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to authorize the United States Department of the Interior U.S. Geological Survey Amendment of Joint Funding Agreement for Water Sources Investigation. The purpose of this amendment is to extend the period of performance. (Engineering and Public Works Department)

Summary:

This amendment extends the performance period and the funding timeline through FY2025. The total project funding in this revised agreement is unchanged from the original agreement. We are requesting a modification in the yearly allocations initially approved. The City of Brownsville paid \$365,148 in FY 2021 and \$773,426 in FY 2022 for a total amount of \$1,138,574.00. The remaining balance of \$1,478,226.00, will be allocated as follows: FY2024, \$820,000.00 & FY2025, \$658,226.00. Funded with C.O. funds in account #809-200-8433.

Project Scope and Analysis:

The objective of the project is to develop a hydrologic monitoring network and hydrologic modeling system that can be used by resource managers to better understand and respond to water-source issues such as water availability, flooding, and drainage system operations. The project includes three phases:

1. Installation and management of the streamgaging monitoring network–Culvert Improvement Site stations.
2. Installation and management of the streamgaging monitoring network–phase 2
3. Development of a hydrologic and water-management modeling system

This is to better understand the hydrologic processes and associated water quality in the Rio Grande and the Brownsville area resaca and canal system by enhancing the streamflow monitoring program in the area. The City of Brownsville is already implementing a hydrologic monitoring network. This project will enhance the network with additional monitoring stations. These additional stations are also intended to support the development of a hydrologic model of the Brownsville area Resaca and drainage network. The proposed new monitoring stations will

help resource managers monitor and manage water-supply, irrigation, drainage and flooding operations.

Funding:

Source: 809-8200-8433

Amount: \$1,478,226.00

Local Contribution if Applicable:

Recommendation:

The City of Brownsville Engineering & Public Works Department recommends approval.

Commission Pillar:

Infrastructure Pillar

Attachments:

1. BrownsvilleScopeOfWork_Rev_June27_2023_NoCostExtension
2. Amendment of Joint Funding Agreement



A Scope of Work Submitted to the City of Brownsville

A Hydrologic Monitoring Network and Hydrologic Model for the Brownsville Resaca and Canal System

*Amended (June 2023) to include a No-Cost Project Extension
Through FY2025*



United States Geological Survey
Oklahoma-Texas Water Science Center

Introduction

The City of Brownsville, Texas, and other parts of the Lower Rio Grande Valley experience a range of water-resource management issues, including binational concerns. Some of the major issues faced by Brownsville and the Lower Rio Grande Valley include population growth and stress on infrastructure, drought, demand for municipal and agricultural water supply, water quality concerns, ecological and wildlife stress, and flooding. In June 2018, Brownsville and most of the Lower Rio Grande experienced devastating flooding. Twelve to eighteen inches of rain over four days resulted in estimated infrastructure damages of more than \$250 million (National Weather Service, 2018).

The Lower Rio Grande Valley, including Cameron County and Brownsville, Texas, draws most of its water from the Rio Grande, via the Amistad-Falcon Reservoir system, which is shared with Mexico. The waters of the Lower Rio Grande are managed by the International Boundary and Water Commission (IBWC) and the Texas Commission on Environmental Quality's (TCEQ) Rio Grande Watermaster. Most of the inflows in this section of the river are from the Mexican portion of the contributing area watershed. The Texas Water Development Board (TWDB) projects an increase in municipal water supply demand of about 33 percent for Brownsville by 2040 (Texas Water Development Board, 2015). Population growth on both sides of the U.S-Mexico border will result in additional pressure on available Rio Grande supplies and the need to more effectively manage available water resources.

The City of Brownsville also features approximately 70 river miles of resacas, which are historical Rio Grande distributary channels that were formed during periods of high flow before large dams were built on the Rio Grande (Figure 1). This network of resacas, ox-bows, and remnant lakes are no longer directly connected to the Rio Grande River. As a result, water in the resacas is supplied either directly from the runoff of local rainfall or from pumps that divert water from the Rio Grande. These hydrologic features are unique in the mostly semi-arid landscape, providing critical aquatic and riparian habitat in urban, suburban, and rural areas. As virtually the sole type of freshwater wetland in the region besides the Rio Grande, resacas maintain a variety of native flora; provide water, food and shelter for diverse fauna including

migratory avian species; and sustain several native fish and amphibian species. They also provide storm-water retention and irrigation water storage, and support recreational activities like fishing, kayaking, and birding (Handbook of Texas, Online, 2019).

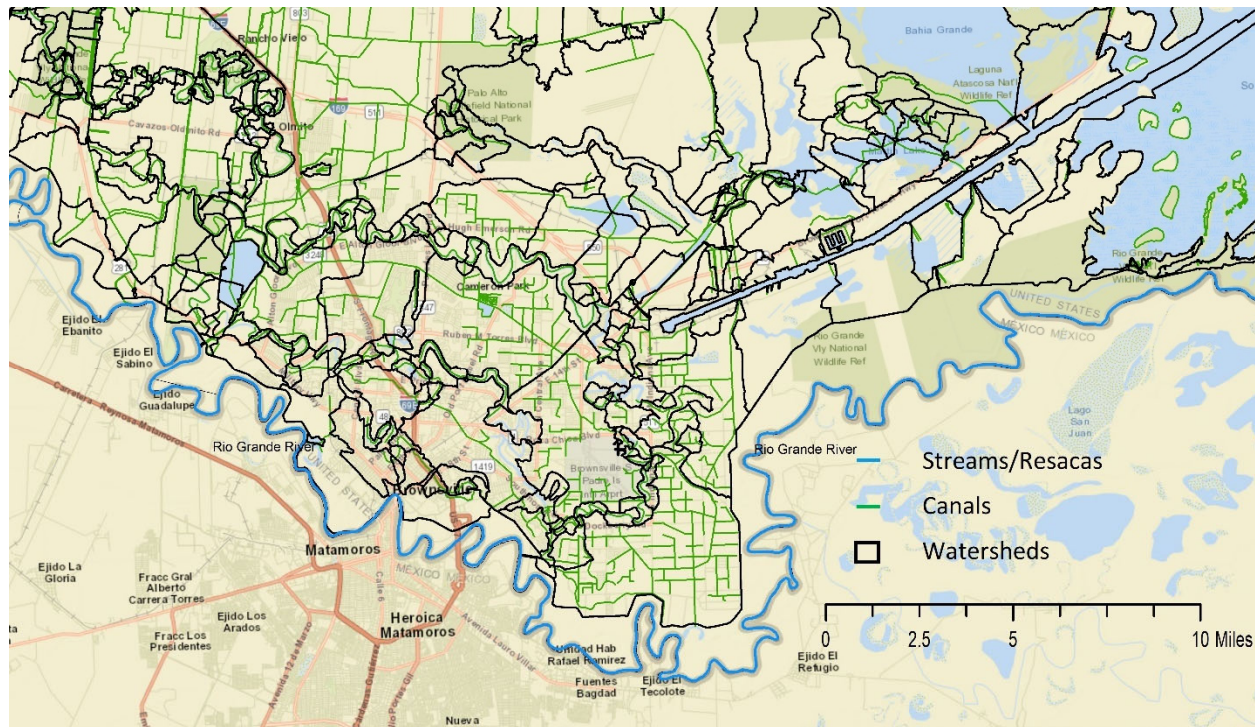


Figure 1. Brownsville Resaca and Canal Hydrologic Network

Problem

The City of Brownsville has a limited real-time streamgaging and water-quality monitoring network. Such a network is vital for providing data to (1) support management of water allocations for municipal, industrial, and irrigation uses, (2) enhance public safety for monitoring and managing flooding and drainage, and (3) provide data for an integrated computer simulation and operational model of the Brownsville area hydrologic system.

In particular, a real time hydrologic data network is needed by the City and other stakeholders in the area that can be used to better understand and manage the complex resaca and canal drainage system and to evaluate the effects of various infrastructure improvements on water-supply management and possible mitigation of damages caused by major flooding.

Finally, an integrated computer model coupled with a real time data network is needed by the City and other stakeholders in the area that can be used to better understand and manage the

complex resaca and canal drainage system and to evaluate the effects of various infrastructure improvements on water-supply management and possible mitigation of damages caused by major flooding. Further, a model is needed to evaluate possible effects of “what if” scenarios for understanding and management of the complex resaca and canal drainage system.

Objective and Scope

The objective of the project is to develop a hydrologic monitoring network and hydrologic modeling system that can be used by resource managers to better understand and respond to water-resource issues such as water availability, flooding, and drainage system operations. The project includes three phases:

1. Installation and management of the streamgaging monitoring network—Culvert Improvement Site stations.
2. Installation and management of the streamgaging monitoring network—phase 2
3. Development of a hydrologic and water-management modeling system

The objective of this project is to better understand the hydrologic processes and associated water quality in the Rio Grande and the Brownsville area resaca and canal system by enhancing the streamflow monitoring program in the area. The City of Brownsville is already implementing a hydrologic monitoring network. This project will enhance the network with additional monitoring stations. These additional stations are also intended to support the development of a hydrologic model of the Brownsville area Resaca and drainage network. The proposed new monitoring stations will help resource managers monitor and manage water-supply, irrigation, drainage and flooding operations.

When the modeling system is calibrated, it can be used to simulate various system actions (for example, dredging a resaca, or installing a pump station on a canal) and to compare the simulation results (streamflows and water levels) with and without the system action, in order to evaluate the possible effect on hydrologic conditions. One application of the model would be to evaluate the drainage system operation, and alternative actions, during extreme hydrologic events.

Approach

Streamflow and water-quality monitoring

The City of Brownsville plans to install eight streamflow monitoring stations at designated Culvert Improvement (CI) Sites. These CI stations will monitor the North Main Drain, Resaca Del Rancho Viejo, and Resaca de la Guerra watersheds (figure 2). *Installation of the CI stations is expected during FY24.*

Ten additional stations (phase 2) are proposed for installation by the USGS during FY22. The phase-two stations will provide monitoring for other ungaged watersheds in the study area. *The Phase-two station installations were completed in August 2022. Operation and real-time display of monitoring data from these stations is ongoing. Data from these stations are available online in near real time at:*

<https://dashboard.waterdata.usgs.gov/app/nwd/en/?aoi=wsc-oktx>.

The locations for CI stations and phase-two stations are shown in figure 2 and listed in tables 1 and 2.

Table 1. Culvert Improvement Site (CI) Hydrologic Monitoring Stations

<i>Station Number (Figure 2)</i>	<i>Installation Date (Fiscal Year)</i>	<i>Station</i>
1	2023-24	North Main Drain #1
2	2023-24	North Main Drain #2
3	2023-24	North Main Drain #3
4	2023-24	Resaca Del Rancho Viejo #1
5	2023-24	Resaca Del Rancho Viejo #2
6	2023-24	Resaca Del Rancho Viejo #3
7	2023-24	Resaca de la Guerra #1
8	2023-24	Resaca de la Guerra #1

The CI monitoring stations will record water elevation and calculate resaca volume at 15-minute intervals (the North Main Drain station #3 will record water elevation and stream discharge). These stations will provide real-time and continuous information on water levels and will be used to determine the hydrologic system water budget at key locations. The data from these stations also will provide essential data for calibration of a hydrologic water-operation model.

Phase 2 Hydrologic Monitoring Stations

<i>Station Number (Figure 2)</i>	<i>Installation Date (Fiscal Year)</i>	<i>Station</i>
1	Oct 2021	Ditch 1 at FM 802
2	Oct 2021	Ditch 2 near Los Fresnos (FM 1847)
3	Oct 2021	Old Main Drain #2 at Boca Chica Highway
4	2022	North Main Drain #3 at Ostos Rd – streamflow
5	2022	Town Resaca near 6th Street
6	2022	Resaca Del Rancho Viejo at Heron Cove – streamflow
7	2022	Resaca Del Rancho Viejo at Heron Cove – water quality
8	2022	North Main Drain at Boca Chica Highway
9	2022	North Main Drain at Manzano Street
10	2022	North Main Drain #3 – water quality

The phase-two stations will record water elevation and calculate stream discharge at 15-minute intervals. Most stations, as necessary, will include velocity-measurement instruments and will be able to accurately monitor backwater and bi-directional flow conditions. These stations will provide real-time and continuous information on water levels, drainage flow rates and will be used to determine the hydrologic system water budget at key locations. The data from these stations also will provide essential data for calibration of a hydrologic water-operation model.

All stations will include tipping bucket rainfall gages to measure the spatial and temporal variability of rainfall. Real-time rainfall data are important for management of drainage and irrigation operations and provide early warning information for flood-management operations. Rainfall data also will provide vital information for calibration of rainfall-runoff simulations for hydrologic modeling.

Two of the phase-two stations are continuous water-quality monitoring instruments. One of the stations was installed at the NMD#3 site (co-located with the CI NMD#3 streamflow station). The other station was installed at Resaca Del Rancho Viejo at Heron Cove street (also co-located with a streamflow monitoring station). Water quality measurements (temperature, specific conductance, dissolved oxygen, and turbidity) will be collected at 15-minute intervals. The water-quality data will supplement streamflow data collected at these sites.

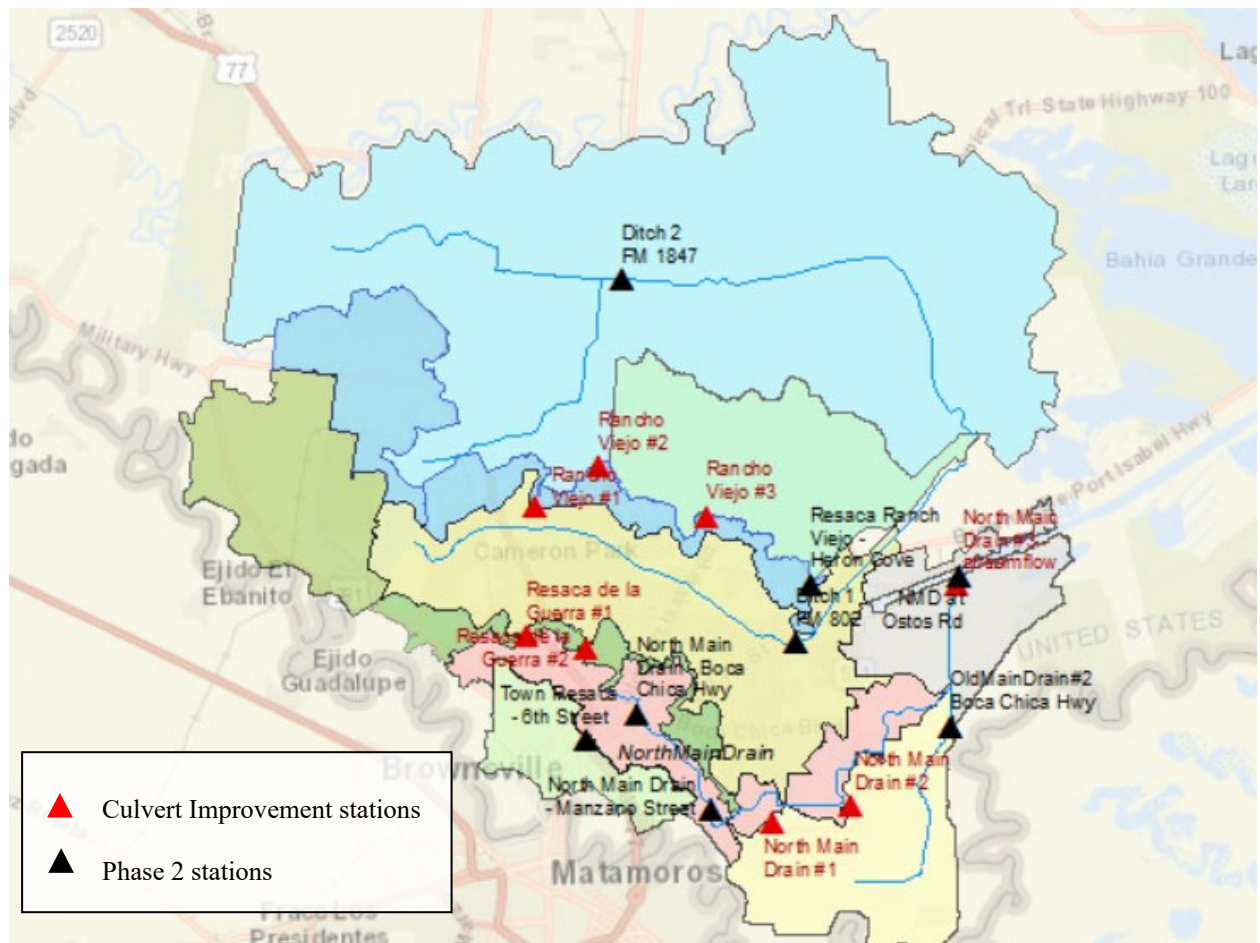


Figure 2. Proposed streamflow monitoring network stations and hydrologic modeling study area watersheds.

Streamflow and water-quality data collected as part of this study will be added to the USGS real-time online network and provided through the USGS NWIS database (U.S. Geological Survey, 2019a), which will allow the public access through USGS Texas Water Dashboard and Water On-The-Go web applications (U.S. Geological Survey, 2019b). In addition, the USGS WaterAlert web application may be configured to send an e-mail or text message when certain parameters measured at USGS real-time stations exceed user-defined thresholds (U.S. Geological Survey, 2019c). These web-based tools will allow anyone (particularly emergency-response planners and managers) to monitor current conditions as well as set up and receive individualized alerts (based on rainfall or stream stage) through their computer or mobile devices.

Resaca Bathymetry

Resaca bathymetry is an important factor in understanding the water balance and water use in the study area. To characterize resaca storage, bathymetric data will be collected at selected locations. Bathymetric data will be collected at all resacas where monitoring stations will be installed. These bathymetric data will be used to develop relationships between water elevation and resaca surface area and storage volume. These elevation-area-volume relations will provide the needed information so that the monitoring stations can be programmed to provide real-time surface area and storage volume. Additionally, bathymetric data will be collected at approximately 40 other resacas to help characterize resaca water volume storage in the study area. Bathymetry data will be published in an online USGS data release.

Hydrologic and Water-Management Model

A hydrologic model of the Brownsville area resaca and canal system will be developed to provide local resource managers a tool to better understand, monitor, and support:

- Water supply and irrigation management and accounting
- Drainage and flood-management operations
- Analysis of water-supply and flood-routing scenarios
- Long-range infrastructure planning
- Supply and drainage management optimization

To achieve the modeling objectives in support of resource management, a proposed hydrologic modeling system will not only account for rainfall and runoff, but also simulate water-supply withdrawals, irrigation, and pumping and control-structure operations that depend on system conditions. The proposed modeling area (figure 2) is approximately 250 square miles.

The computer program proposed for development of a hydrologic model system is the Hydrological Simulation Program—FORTRAN (HSPF). HSPF is a continuous, semi-lumped parameter model (Singh, 1995) that provides continuous water balance and routing by tracking rainfall and runoff through the conceptual pathways of the hydrologic cycle. In HSPF, a watershed is represented by a group of hydrologically similar areas referred to as hydrologic

response units (HRUs) that drain to a stream segment, lake, or reservoir referred to as a ReaCH REServoir (RCHRES). HRUs are areas in a subwatershed that have similar hydrologic and water-quality characteristics that are determined based on land use, surficial geology, soil characteristics, and other factors that are deemed to produce similar hydrologic responses to rainfall and potential evapotranspiration.

HSPF is composed of a series of computational routines that separately simulate processes of the hydrologic cycle. Specifically, HSPF simulates the hydrologic cycle as an interconnected series of storage (and processing) segments with water fluxes (volume per unit area per unit time) moving between the various storages. HSPF also features the ability to simulate operations such as pumping and control-structure operation that can vary depending on system conditions.

The result of HSPF simulations are time series of hydrologic parameters, or water-balance components (such as water level, flow rate, stream reach storage, evaporation rates, etc.) at any selected location in the watershed. HSPF time-series outputs can be linked to inputs of other models.

One of the first steps in development of the HSPF model is to characterize the operation of control structures, particularly pump stations. The modeling team will meet with infrastructure staff from the City of Brownsville and drainage and irrigation districts to obtain infrastructure operation data. The USGS will perform a reconnaissance of all the pump stations and make flow measurements, as needed, near the stations to help develop the information needed by the model to simulate control structure operation.

Another important step in the development of the HSPF model is to determine water volume storage capacities of the canals, resacas, and reservoirs of the study area. Information from various agencies (municipalities, utilities, drainage and irrigation districts), will be compiled to develop storage capacity information for the model. The USGS also will perform some limited surveying of canal and resaca stream reaches where the monitoring station locations are to be installed.

The calibration of the rainfall-runoff processes within the HSPF model will rely upon available rainfall, streamflow and evapotranspiration data. Long-term streamflow data for the study area are limited by the unavailability of streamflow gaging stations before about 2018. A previous USGS study, including development of an HSPF model of the adjacent Arroyo

Colorado watershed (Raines and Miranda, 2002) is expected to provide useful guidance for selection of HSPF process-related parameters for calibration of the new model.

After the model is calibrated, several simulation scenarios will be developed based on the discussions with the City of Brownsville and other partners. Possible model scenarios could include exploration of the effects of:

- Population growth and watershed development on runoff conditions in the study area.
- Flooding and flood-routing from an extreme rainfall event.
- Simulation of the effects of infrastructure changes. Some examples of infrastructure changes could include:
 - Simulation of additional water storage capacity through resaca dredging or reservoir construction.
 - Drainage network improvements, such as additional pump stations/capacity.

In the final year of the study, a USGS Scientific Investigations Report will be prepared that documents the model development and key findings of the study. Also, a USGS data release product will be published which will include hydrologic data collected during the study. All hydrologic model software files will be stored in the USGS model archive and made available to the study partners.

Project Timeline

The proposed timeline for the monitoring network installation and operation, as well as bathymetric data collection, is shown in the table below. Installation of the CI stations is planned for FY2023-24. Operation and maintenance of the stations are shown through FY2025.

Timeline for Monitoring Station Installation and Operation and collection of Resaca Bathymetry Data (revised, June 2023*)

Project Task	FY20	FY21	FY22	FY23	FY24	FY25
Phase 2 Station Installation (USGS)						
Resaca bathymetric data collection and data publication						
Operation and Maintenance of hydrologic monitoring stations.						

* Project timeline was revised to include a no-cost extension for period of Operation and Maintenance of Culvert Improvement Site and Phase 2 stations through FY25.

The proposed project timeline for the development of the hydrologic and water management model is shown in the table below. A preliminary delineation of the study area catchments/watersheds, as part of the development of the modeling framework, was completed in FY20. Completion of the model, scenario simulation results, modeling report, and other documentation will be completed in FY24.

Project Timeline for Hydrologic Modeling (revised, June 2023*)

Project Task	FY21	FY22	FY23	FY24	FY25
Development of modeling framework.					
Meteorological and hydrological data compilation					
Characterize stream routing parameters, including pump and structure operation					
Model calibration					
Simulate various development, system operation, and flood scenarios					
Publish interpretive report documenting model framework, calibration, and simulation scenarios.					

* Project timeline was revised to include a no-cost extension of the hydrologic modeling tasks through FY24. No work on project during FY23.

Project Funding

The proposed funding, by task, and by Funding Partner, through FY25, is shown in the table below. **The total project funding in this revised agreement is unchanged from the original agreement. The funding timeline has been extended through FY25.**

Proposed Funding by Task and Fiscal Year (revised, June 2023*)

Project Task	FY21	FY22	FY23	FY24	FY25	Total
Operation of 8 CI monitoring sites	\$ 15,000	\$ 7,500	--	--	\$185,000	\$ 207,500
NMD#3 Water quality station		\$ 79,600	--	--	--	\$ 79,600
Resaca Bathymetry		\$ 82,275	--	\$ 37,020	\$ 50,000	\$ 169,295
Installation of Phase 2 monitoring sites.	\$ 134,798	\$ 195,600	--	--	--	\$ 330,398
Operation of Phase 2 monitoring sites	\$ 0	\$ 142,100	\$ 34,450	\$268,340	\$ 198,226	\$ 643,116
Total for Installation and Operation of Monitoring Network and Resaca Bathymetry	\$ 149,798	\$ 507,075	\$ 34,450	\$305,360	\$433,226	\$ 1,429,909
Hydrologic and Water Operation Modeling	\$ 277,050	\$ 333,451	\$ 34,450	\$ 562,140	\$ 225,000	\$ 1,432,091
Total	\$ 426,848	\$ 840,526	\$ 68,900	\$867,500	\$658,226	\$ 2,862,000
<i>Funding Partner</i>						
U.S. Geological Survey	\$ 61,700	\$ 67,100	\$ 68,900	\$ 47,500	--	\$ 245,200
City of Brownsville	\$ 365,148	\$ 773,426	--	\$ 820,000	\$ 658,226	\$ 2,616,800
Total	\$ 426,848	\$ 840,526	\$ 68,900	\$ 867,000	\$ 658,226	\$ 2,862,000

** This budget reflects a no-cost extension of the project through FY25. No funding from the City of Brownsville is included for FY24. The total budget funding is unchanged from the original proposed agreement.*

References

Handbook of Texas Online, Charles M. Robinson III, "RESACAS," accessed February 04, 2019, <http://www.tshaonline.org/handbook/online/articles/rbrnp>.

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- U.S. Geological Survey, 2019c, Water Resources of the United States—WaterAlert, accessed December 19, 2019 at: <https://maps.waterdata.usgs.gov/mapper/wateralert/>
- University of Texas–Rio Grande Valley, 2018, Lower Laguna Madre/Brownsville Ship Channel Watershed Characterization 2018 (Draft); accessed December 12, 2019 at:
http://arroyocolorado.org/media/700369/llm_wc_102618_forstakeholderreview.pdf



United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Oklahoma-Texas Water Science Center
1505 Ferguson Lane
Austin, TX 78754

September 26, 2023

Mr. Doroteo Garcia, Jr
Engineering-Public Works Director
City of Brownsville
6035 Jaime Zapata
Brownsville, TX 78521

Dear Mr. Garcia:

Enclosed is one signed copy of Amendment 1 to the agreement for the project Oklahoma-Texas Water Science Center Water Resource Investigations. The purpose of the amendment is to extend the period of performance through September 30, 2025. All other terms and conditions remain unchanged. Please sign and return one signed copy via email to gs-w-ot_otadmin@usgs.gov, attention Karen Beers.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement by **October 30, 2023**. If, for any reason, the agreement cannot be signed and returned by the date shown above, please contact Douglas Schnoebelen by phone number (210) 691-9262 or email dschnoebelen@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed quarterly via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Karen Beers at phone number (512) 927-3535 or email at kabeers@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

Timothy H. Raines
Center Director

Enclosure
21SJFATX212000 Amd 1

UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
AMENDMENT OF JOINT FUNDING AGREEMENT
FOR
WATER RESOURCES INVESTIGATIONS

Agr #. 21SJFATX212000
Cust #. 6000006875
TIN: 74-6000422
Amendment No. 1

Fixed Cost Agreement

Yes ☒ No ☐

This amendment is for the agreement dated January 1, 2021.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation A Hydrologic Monitoring Network and Hydrologic Model for the Brownsville Resaca and Canal System. The purpose of this amendment is to extend the period of performance due to City contractor delays getting sites installed herein called the program.

2. Paragraph 2a of the agreement is hereby increased/ decreased by \$ NO CHANGE to read as follows:

(a) \$ 245,200 by the party of the first part during the period 3/2/2021 to September 30, 2025.

Paragraph 2b of the agreement is hereby increased/ decreased by \$ NO CHANGE

(b) \$ 2,616,800 by the party of the second part during the period 3/2/2021 to September 30, 2025.

Billing for this agreement will be rendered Quarterly. Payments of bills are due within 60 days after billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30-day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.)

UNITED STATES
DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
TIMOTHY RAINES
by Digitally signed by
TIMOTHY RAINES
Date: 2023.06.30
12:34:23 -05'00'
(Signature)
(Name)
Center Director
(Title)

Date _____

City of Brownsville
by _____
(Signature)
(Name)
(Title)

Date _____

APPROVED AS TO FORM

Guillermo S. Trevino

Guillermo (Will) S. Trevino
City Attorney
City of Brownsville, Texas



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Doro Garcia, Public Works/Engineer Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve **Resolution Number 2023-125** for the agreement between the Texas Department of Transportation (TxDOT) and the City of Brownsville to authorize the street closure(s) for the Christmas Parade. (Engineering & Public Works Department)

Summary:

The City of Brownsville will be sponsoring and assisting with the Christmas Parade on December 2, 2023. The event will require the temporary closure of a portion of Elizabeth St., Palm Blvd., and Central Blvd. (BUS 77Z) from W. 10th St. to International Blvd. (SH 4).

Project Scope and Analysis:

Agreement with the Texas Department of Transportation to authorize the street closure(s) for the Christmas Parade.

Funding:

Source: N/A

Amount: \$0.00

Local Contribution if Applicable:

Recommendation:

The City of Brownsville Engineering and Public Works Department recommends approving an Agreement with Texas Department of Transportation authorizing street closure(s) for the Christmas Parade.

Commission Pillar:

Quality of Life

Attachments:

1. Resolution Number 2023-125
2. Application-Temporary Closure of State ROW -ChristmAS Parade
3. TTCP - Christmas Parade 2023
4. Charro Days Fiesta, Christmas Parade 2023 Correspondence
5. Parade Letter to Texas Department of Transportation

**RESOLUTION NUMBER 2023-
125**

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, APPROVING AN AGREEMENT BETWEEN THE CITY OF BROWNSVILLE AND THE TEXAS DEPARTMENT OF TRANSPORTATION TEMPORARY CLOSURE OF A STATE RIGHT-OF-WAY FOR THE ANNUAL CHRISTMAS PARADE ON DECEMBER 2, 2023.

WHEREAS, the state owns and operates a system of highways for public use and benefit including Brownsville, in Cameron County, Texas; and

WHEREAS, the City of Brownsville (the “City”) is sponsoring the annual Christmas Parade on December 2, 2023; and

WHEREAS, the event will require the temporary closure of a portion of Elizabeth St., Palm Blvd., and Central Blvd. (BUS 77Z) from W. 10th St. to International Blvd. (SH 4); and

WHEREAS, the State, in recognition of the public purpose of the event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State’s right-of-way will be performed within the State’s requirement, and in connection therewith, the State requires an agreement between the City and the State in regard thereto; and

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Brownsville, Texas, approves the execution of the Agreement with the Texas Department of Transportation.

PASSED AND APPROVED this 7th day of November 2023.

City of Brownsville, Texas

John Cowen, Jr.
Mayor

ATTEST:

Yolanda Galarza-Gomez,
TRMC City Secretary

STATE OF TEXAS §

COUNTY OF §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT-OF-WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Brownsville, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "City."

W I T N E S S E T H

WHEREAS, the State owns and operates a system of highways for public use and benefit, including Brownsville, in Cameron, County; and

WHEREAS, the City has requested the temporary closure of W. Elizabeth St. between W. 10th St. and International Blvd. (SH 4) for the purpose of Christmas Parade, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the City's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right-of-way will be performed within the State's requirements; and

WHEREAS, on the 2nd day of December, 2023, the _____ City Council passed Resolution / Ordinance No. _____, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the City to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

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

A G R E E M E N T

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The description of the Event, including the proposed schedule of start and stop times, approximate number of people attending the Event, and equipment involved shall be attached hereto and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

- A.** The City shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.
- B.** The City shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right-of-way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State.
- C.** The City will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.
- D.** The City will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right-of-way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The City will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the City shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.
- E.** The City hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the City's traffic control plan.
- F.** The City will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right-of-way and restore or repair the State's right-of-way, including roadway and drainage structures, signs, and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural environment, including landscape features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the City will remain the property of the City. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use.

Article 5. TERMINATION

- A.** This agreement may be terminated by any of the following conditions:
 - (1) By mutual written agreement and consent of both parties.
 - (2) By the State upon determination that use of the State's right-of-way is not feasible or is not in the best interest of the State and the traveling public.
 - (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
 - (4) By satisfactory completion of all services and obligations as set forth herein.
- B.** The termination of this agreement shall extinguish all rights, duties, obligations and liabilities of the State and City under this agreement. If the potential termination of this agreement is due to the failure of the City to fulfill its contractual obligations as set forth herein, the State will notify the City that possible breach of contract has occurred. The City

must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the City does not remedy the breach to the satisfaction of the State, the City shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. 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.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right-of-way, the City and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the City and/or its contractors are encroaching upon the State right-of-way.

B. In the event the City is a self-insured entity, the City shall provide the State proof of its self-insurance. The City agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the City and the State.

Article 10. COMPLIANCE WITH LAWS

The City shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right-of-way.

Article 11. LEGAL CONSTRUCTION

In case 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 hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES

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

City:	State:
City of Brownsville, TX	Texas Department of Transportation
1001 E. Elizabeth St.	
Brownsville, TX 78520	

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

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

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF Brownsville
Executed on behalf of the City by:

By _____ Date _____
City Official

Typed or Printed Name and Title _____
APPROVED AS TO FORM
AND LEGALITY



Guillermo (Will) S. Trevino
City Attorney
City of Brownsville, Texas

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
District Engineer

By _____ Date _____
Director of Maintenance

Exhibit A

- **LETTER (LETTERHEAD) WITH EVENT NAME, DATE(S), ETC.**

Exhibit B

- **LETTER FROM THE LAW ENFORCEMENT OFFICE PROVIDING THE TRAFFIC CONTROL PLANS.**

Exhibit C

- **MAP REFLECTING LOCATION(S) WHERE CLOSURE WILL TAKE PLACE.**



CHRISTMAS PARADE STREET CLOSURES



CHARRO DAYS FIESTA

455 E. Elizabeth St. ♦ Brownsville, Texas 78520 ♦ (956) 542-4245 ♦ charrodaysfiesta@gmail.com



September 5, 2023

Ms. Helen Ramirez
City Manager
1001 E. Elizabeth Street
Brownsville, Texas 78520

Dear Ms. Helen Ramirez:

The purpose of this correspondence is to respectfully request your permission and assistance regarding our upcoming event, the 71st Annual Christmas Parade to be held on Saturday, December 2, 2023, at 7:00 p.m. In case of inclement weather, the alternate date will be Saturday, December 9, 2023, at 7:00 p.m.

Charro Days Inc. is also requesting that Elizabeth Street from Central Boulevard to West Second Street be closed at 5:00 p.m. on said date to allow parking of floats and other parade participants.

As in the past, we appreciate your support and guidance in helping us continue the tradition of the Annual Christmas Parade presented by Charro Days Inc.

Sincerely,

H.L.

Henry LeVrier,
President, Charro Days Inc.

The Spirit of Two Nations in Celebration Since 1938



Felix Saucedo
Chief of Police

BROWNSVILLE POLICE DEPARTMENT

October 16, 2023

Texas Department of Transportation
600 W. IH2
Pharr, TX 78577

I am writing to formally acknowledge the receipt of the traffic plan(s) and associated responsibilities for the 71st Annual Christmas Parade scheduled for the first week of December 2023. As is customary during this annual celebration, the Brownsville Police Department will be responsible for the comprehensive management of traffic and the implementation of detour routes.

The parade is scheduled for December 2, 2023, with an inclement weather alternative date of December 9, 2023.

Thank you for entrusting us with this vital task, and we look forward to ensuring the safety and smooth traffic flow during this festive event.

D. L. De Leon

A handwritten signature in black ink, appearing to be "D. L. De Leon", written over a white background.

Office of the Chief of Police
Brownsville Police Department
600 E. Jackson St.
Brownsville, Texas 78520
Cell: 956-592-5274



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Stephen Eliseo Muse, Accountant III
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to employ Vector Airport Systems, LLC.'s PLANEPASS Automated Aircraft Fee Billing and Collections Solution through a 3-year agreement at a cost of 25% of landing fees collected. (Airport Department)

Summary:

Vector PlanePlass performs all functions of billing and collection through a fully outsourced system that has been trusted by over 40 clients and the FAA.

- Service fee is 25% of landing fees collected, approx. \$20k annually based on current traffic.
- Contract Agreement is for 1 primary term and 2 optional renewals.

Project Scope and Analysis:

The Airport's current landing fee billing and collection process is time-intensive and ineffective. It entails Operations personnel manually logging landings by reviewing video and looking up tail numbers on an FAA database to charge the appropriate company a landing fee. By contracting with Vector we will:

- Increase Employee Productivity – By eliminating time-intensive video reviews, staff can focus on mission priorities such as airfield safety and security.
- Reduce Billing Discrepancies – Manual processes are susceptible to human error. By having an automated system, revenue capture will increase through the elimination of errors and accidental omissions.

Funding:

Source: Self Funded - Operating Revenues through Landing Fees

Amount: Approx. \$20K Annually

Local Contribution if Applicable: N/A

Recommendation:

The Airport recommends approval of this item.

Commission Pillar:

Economic Development

Attachments:

1. 10.11.23 Planepass Agreement & Sole Source - Legal Approved



Financial Services

SOLE SOURCE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared William Repole, a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is William Repole. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: Vector Airport Systems.
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):
PLANEPASS
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why it is a sole source provider (dated and signed).
5. There is/are no other like item(s) product(s), or services available for purchase that would serve the same purpose or function.
6. Note: I understand that by providing false information on this Sole Source Affidavit, we may be considered a non-responsive Vendor on this and future purchases and may result in discontinuation of any/all business with the City of Brownsville.

William Repole
Signature



SUBSCRIBED AND SWORN to before me on this 29th day of September, 2023.

Patrick Hanney
NOTARY PUBLIC
Patrick Hanney
PRINTED NAME
1/31/2024
MY COMMISSION EXPIRES

COMPANY NAME: Vector Airport Systems

ADDRESS, CITY, STATE & ZIP CODE: 280 Sunset Park Drive, Herndon, VA 20170

PHONE: 888-588-0028

FAX NUMBER: _____

CONTACT NAME AND TITLE: William Repole

WEB ADDRESS: vector-us.com

EMAIL: Will.Repole@vector-us.com

FEDERAL TAX ID NUMBER: 45-5407116

TEXAS SALES TAX NUMBER: _____

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
VECTOR AIRPORT SYSTEMS, LLC &
CITY OF BROWNSVILLE FOR BROWNSVILLE SOUTH PADRE ISLAND INTERNATIONAL
AIRPORT

Agreement Name: *PLANEPASS*® Automated Aircraft Fee Billing & Collections Solution

This agreement ("AGREEMENT"), dated as of October 10, 2023 ("Execution Date"), is by and between the City of Brownsville for Brownsville South Padre Island International Airport, (hereinafter "CLIENT"), and Vector Airport Systems, LLC (hereinafter "CONTRACTOR"). The CLIENT shall be defined as the client airport(s) and their governing municipality.

RECITALS

- I. WHEREAS, CONTRACTOR represents that it is a duly qualified provider of various products and services including:
 - *PLANEPASS*® aircraft operating fee billing & collection services,
 - System installation and maintenance services
- II. WHEREAS, in the judgment of the CLIENT, it is necessary and desirable to employ the services of CONTRACTOR for:
 - The performance of aircraft operating fee billing & collection services.
- III. NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1. **Term of Agreement:** The Term of this Agreement shall be selected herein as:
 - 1.1. Three (3) years starting on the "COMMENCEMENT DATE".
 - 1.2. COMMENCEMENT DATE: December 1, 2023
 - 1.3. After the expiration of the initial Term, CLIENT shall have the option to renew the AGREEMENT annually on the anniversary of the COMMENCEMENT DATE for two (2) one-year Option Year(s). The AGREEMENT will automatically renew unless either party provides notice per Section 2.3. All terms, conditions, and fees of this AGREEMENT continue unchanged during the Option Year(s).
2. **Termination**
 - 2.1. **Termination for Convenience:** Neither party may terminate this AGREEMENT for convenience without the consent of the other party. Requests for termination for convenience must be made

in writing to the contacts listed in Section 7 no less than sixty (60) calendar days prior to the requested termination date.

2.2. Termination for Cause: Notwithstanding any other provision of this AGREEMENT --

Should CONTRACTOR fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this AGREEMENT, CLIENT must:

- First, notify CONTRACTOR of violation of obligations and give CONTRACTOR 30 calendar days to cure this violation.
- Second, if CONTRACTOR fails to cure the violation within 30 calendar days of receiving notification from CLIENT, CLIENT may immediately terminate this AGREEMENT by giving CONTRACTOR written notice of such termination, stating the reason for termination.

Should CLIENT fail to perform its obligations under this AGREEMENT, including failing to pay CONTRACTOR in accordance with this AGREEMENT, or otherwise violates any of the terms of this AGREEMENT, CONTRACTOR must:

- First, notify CLIENT of violation of obligations and give CLIENT 30 calendar days to cure this violation.
- Second, if CLIENT fails to cure the violation within 30 calendar days of receiving notification from CONTRACTOR, CONTRACTOR may immediately terminate this AGREEMENT by giving CLIENT written notice of such termination, stating the reason for termination.

2.3. Termination for AGREEMENT Expiration: If, upon the expiration of this AGREEMENT, the CLIENT or CONTRACTOR elect not to continue this AGREEMENT (either by extension of agreement period or entering into a new agreement for similar products, services, or solutions), either CONTRACTOR or CLIENT may notify the other party in writing of intent to not continue this AGREEMENT. Notice must be given 60 days prior to the anniversary of the COMMENCEMENT DATE. In the case of such notification, the following provisions will also apply in this case as well as for Termination for Cause.

2.4. Delivery of Work Product and Final Payment Upon Termination: In the event of termination, CONTRACTOR, within 30 days following the date of termination, shall deliver to CLIENT:

- For PLANEPASS®: All standard reports pertaining to unpaid balances and to any amounts paid into CONTRACTOR and unpaid yet to CLIENT.

2.5. Payment Upon Termination: Upon termination of this AGREEMENT by CLIENT, CONTRACTOR shall be entitled to payment for all contracted services unpaid and due before the effective date of cancellation. Payment shall be made by CLIENT within 30 days of a written invoice from CONTRACTOR.

For PLANEPASS® billing & collection service:

- CONTRACTOR will remit to CLIENT all aircraft operating fees collected up to the point of cancellation, less the CONTRACTOR Billing & Collection Fees specified in this document.
- CONTRACTOR will produce aircraft operating invoices for the un-invoiced period, ideally a full calendar month per the normal process. This final invoice period will be the last period of aircraft operating fee invoices. No further regular cycle invoices will be produced. Out of Cycle invoices for this or prior periods may still be produced as necessary to correct any billing errors discovered through the customer service process.
- CONTRACTOR will continue *PLANEPASS*® customer service, payment processing, active collections, reporting, and remittance for four full-month periods after the AGREEMENT termination effective date. Four months are recommended to maximize collections for previously invoiced periods. CONTRACTOR's ongoing fee for *PLANEPASS*® Billing & Collection service stated in Section 4.2 will apply to amounts collected during the four-month period after termination date.
- After the above indicated service continuation period has ended, CONTRACTOR will discontinue all customer service and collection efforts and will refer all customer service calls to the CLIENT. Because some aircraft operators may not comply with CONTRACTOR's instructions to pay CLIENT directly after continuation period has ended, CONTRACTOR will continue to passively allow payments to be made to its lockbox and will continue to report and remit these payments to the CLIENT.

3. Scope of Work

- 3.1. **CONTRACTOR's Specified Work:** CONTRACTOR shall perform the services described in EXHIBIT A, attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in EXHIBIT A.
- 3.2. **Cooperation with CLIENT:** CONTRACTOR shall cooperate with CLIENT and CLIENT staff in the performance of the Scope of Work hereunder.
- 3.3. **Cooperation by CLIENT:** CLIENT shall cooperate with CONTRACTOR and CONTRACTOR's staff in performance of the Scope of Work hereunder.
- 3.4. **Performance Standard:** CONTRACTOR shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in CONTRACTOR's profession. CLIENT has relied upon the professional ability and training of CONTRACTOR as a material inducement to enter into this AGREEMENT. CONTRACTOR hereby agrees to provide all services under this AGREEMENT in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws.

4. **Compensable Products and Services:** CONTRACTOR shall be compensated for all goods sold and services performed pursuant to this AGREEMENT according to the following:

4.1. **Equipment:** As of Execution Date, the contracted solution does not require CLIENT to purchase equipment. If future changes in scope require equipment purchase, the purchase will be governed by an amendment to this AGREEMENT, or a separate agreement or purchase order.

4.2. **PLANEPASS® Billing & Collection:** CONTRACTOR'S ongoing fee for billable activity is 25% of amounts collected under the terms of this AGREEMENT. CONTRACTOR'S fee is paid out of collections on behalf of CLIENT at the time of transfer of the "Balance of Collections" to CLIENT.

4.2.1. The "Balance of Collections" is defined as total net collections on behalf of CLIENT in a monthly collection cycle less the PLANEPASS® Billing & Collection fee, stated above.

4.2.2. The transfer of the "balance of collections" and CONTRACTOR's fee will occur monthly by the 10th business day.

5. **Payment Terms:** For all services and incidental costs required hereunder, CONTRACTOR shall be paid in accordance with the following terms:

5.1. **Equipment:** If added to this AGREEMENT, the price of equipment is paid 50% due within 30 days of arrival of shipped equipment at CLIENT, 50% within 30 days of invoice after installation & testing. Note: Installation will not commence until initial 50% payment is received by CONTRACTOR.

5.2. **PLANEPASS® Billing & Collection:** CONTRACTOR's fee is retained by CONTRACTOR from billing & collection proceeds, transferred from collections account at the time of monthly disbursement to CLIENT following each monthly collection period.

6. **Insurance:** With respect to performance of work under this AGREEMENT, CONTRACTOR shall maintain insurance with the minimum policy limits as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*.

Type of Coverage	Policy Limits
Worker's Compensation	\$1,000,000
Commercial General Liability	\$1M per occurrence, \$2M aggregate
Business Auto Liability	\$1,000,000

CONTRACTOR shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

CONTRACTOR's liability to CLIENT shall be limited to those items covered and paid by CONTRACTOR's insurance policies as listed above.

7. **Notice:** All notices, demands, requests or approvals to be given under this AGREEMENT, shall be given in writing and conclusively shall be deemed served when delivered personally or on the third business day after deposit in the United States mail, postage prepaid, registered or certified, addressed as follows:

7.1. All notices, demands, requests or approvals from CONTRACTOR to CLIENT shall be addressed to:

7.2. All notices, demands, requests or approvals from CLIENT to CONTRACTOR shall be addressed to:

Peter Coleton, President
Vector Airport Systems
280 Sunset Park Drive
Herndon, VA 20170

8. **Independent Parties:** The parties to this AGREEMENT will act in their independent capacities and not as agents, employees, or partners of one another. CLIENT, its officers, and employees shall have no control or direction over CONTRACTOR or any of CONTRACTOR's agents, employees, or subcontractors, except as otherwise provided herein.

9. **Integrated Contract:** This AGREEMENT represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modifications of this AGREEMENT will be effective only by written execution signed by both CLIENT and CONTRACTOR and approved as to form by CLIENT's Attorney.

10. **Authority of Executor:** The person executing AGREEMENT on behalf of CLIENT certifies and represents that he/she has authority and power to bind CLIENT to the obligations set forth herein and to sign on its behalf.

11. **Waiver:** A waiver by either party to this AGREEMENT of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein.

12. **Successors in Interest:** All terms and conditions of this AGREEMENT shall be binding upon and inure to the benefit of any successors in interest to the parties hereto. This clause shall not be deemed as a waiver of any prohibitions or conditions against assignment.

13. **Indemnification:** CONTRACTOR to CLIENT: The CONTRACTOR shall indemnify and hold harmless the CLIENT, its officers, employees, agents and contractors from liabilities, damages, losses, and costs, including but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this AGREEMENT.

CLIENT to CONTRACTOR: To the extent allowed by the Laws of the state of Texas, the CLIENT hereby agrees to indemnify, defend, save, and hold harmless the CONTRACTOR from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional or negligent acts or occurrence, omission, or commission of the CLIENT, its agents, or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the CONTRACTOR for its own negligence. These terms shall not be construed to waive any statutory rights provided to the CLIENT.

14. **No Personal Liability:** No member, director, or officer or employee of either party shall be personally liable for the performance of either party's obligations under this AGREEMENT or on account of any breach thereof or because of its execution or attempted execution.

15. **Limitation of Liability:** CONTRACTOR's total liability for any and all injuries, claims, losses, expenses, or damages whatsoever, including attorney's fees, arising out of or in any way related to the CONTRACTOR's work or this AGREEMENT from any cause or causes, including but not limited to CONTRACTOR's errors, omissions, negligence, strict liability, and breach of contract, shall not exceed two million dollars (\$2,000,000.00) or the total amount paid to CONTRACTOR by CLIENT under this AGREEMENT within the previous twelve (12) months, whichever is lesser.

16. **Work for Hire:** CONTRACTOR retains ownership and all intellectual property, trademark and patent rights associated with any and all processes or materials, tangible or intangible, used in the provision of services under this AGREEMENT. Such materials include but not limited to: concepts, ideas, techniques, data, databases, software, customer lists, materials, and specifications.

17. **Severability:** If any provision of this AGREEMENT, or the application thereof, to any person or circumstances shall to any extent be held invalid or unenforceable, the remainder of this AGREEMENT, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby, and each term and provision of this AGREEMENT shall be valid and be enforced to the fullest extent permitted by law unless one or both parties would be substantially and materially prejudiced.

18. **Governing Law and Venue:** This AGREEMENT shall be governed by, and construed in accordance with, the laws of the state of Texas. The courts of Texas shall have exclusive jurisdiction to hear any

claim between the CONTRACTOR and the CLIENT in connection with the AGREEMENT. Prior to filing any claim or action related to this AGREEMENT, the parties may, but shall not be obligated to, submit such claim or action to non-binding mediation before a mediator mutually agreeable to the parties. The parties shall share equally in the costs of mediation.

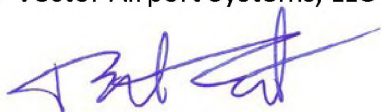
19. **Force Majeure:** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of insurrection, war, fire or other casualty or other reason of a similar or dissimilar nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this AGREEMENT, then performance of such act shall be excused for the period of the actual delay attributable to such causes, and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an “Unavoidable Delay”). This Section shall not be applicable to the CONTRACTOR's obligations to procure insurance or to pay any Payments or any other sums, moneys, costs, charges or expenses required to be paid by the CONTRACTOR hereunder. If any provision of this AGREEMENT negates or limits the period of any force majeure extension, such provision shall override this Section. The CONTRACTOR shall not be entitled to an extension for any Unavoidable Delay unless the CONTRACTOR has given the CLIENT notice of the delay within a reasonable time following the occurrence of the delaying event.

20. **Nondiscrimination:** Without limiting any other provision hereunder, CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations regarding nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the CLIENT's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this AGREEMENT are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the Effective Date.

[signature page to follow]

VECTOR: Vector Airport Systems, LLC

By:  _____

Title: CEO

Name: Peter Coleton

Date: October 10, 2023

CLIENT: City of Brownsville, Texas

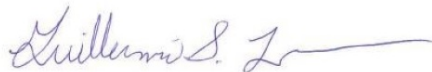
By: _____

Title: _____

Name: _____

Date: _____

**APPROVED AS TO FORM
AND LEGALITY**



Guillermo (Will) S. Trevino
City Attorney
City of Brownsville, Texas

EXHIBIT A - Scope of Work (“WORK”)

CONTRACTOR shall:

Provide the *PLANEPASS*® billing & collection service to manage the fees designated by the CLIENT:

- Landing Fees approved by Resolution xxx on xxx date and as amended by subsequent Resolutions
- Other fees implemented by CLIENT, as requested in writing to CONTRACTOR by an authorized representative of the CLIENT
 - CONTRACTOR must agree in writing that other fees implemented do not materially change the Scope of Work required to provide *PLANEPASS*® service.
 - Other fees that require material changes to Scope of Work may require renegotiation and an amendment CONTRACTOR’S fee stated in Section 4.2 of this AGREEMENT.

Provide overall project management for each of the components listed, from procurement through, and including, training.

1. **PLANEPASS® Billing & Collection Service:** Utilize *PLANEPASS*® service to provide billing services once an aircraft and a billable operation is identified as having occurred, as defined by the CLIENT. Track exempt aircraft, billable weights, and operations types (e.g., arrivals and departures).
 - 1.1. At AGREEMENT outset, *PLANEPASS*® service does not require the installation of equipment on site. CONTRACTOR may, at its own expense, install an ADS-B receiver or similar equipment on site at a future date should CONTRACTOR, in its best judgment, believe necessary to augment service.
 - 1.2. Provide exemptions for CLIENT-designated aircraft via batch upload from Excel spreadsheet(s). During the billing process, aircraft listed as exempt, and those under a specified weight, will be removed automatically from the billable activities to be invoiced.
 - 1.3. Coordinate with CLIENT staff to ensure that invoices generated on behalf of the CLIENT are consistent with the CLIENT’s existing billing rate and policies. Produce accounting data in a standard format for import into the CLIENT’s accounting system, as required. Provide electronic access to CONTRACTOR’s Customer Portal in order to allow CLIENT customers to receive electronic invoices. All other invoices will be printed, sorted and mailed to customers by CONTRACTOR.
 - 1.4. Provide customer service center access (live via phone and email) to all aircraft operator accounts to address and resolve questions regarding fees, invoices, payments and other customer service items that arise from issued invoices.
 - 1.5. Provide secure payment portal where aircraft operators can login to their account(s) to check billing status, print and review bills, and submit payment online.
 - 1.6. Maintain *PLANEPASS*® automated billing services including: billing, customer support, collection of fees, and reporting.
 - 1.7. Enable web-based access by CLIENT staff to collected data using Airport Portal. Data must be available to download into commercial off-the-shelf software program (Excel).
 - 1.8. Provide collection system that automatically credits accounts for payments received, calculates operator balances, and tracks accounts receivable balances.

- 1.9. Process payments through a secure bank lockbox service with proper and auditable cash controls. At the close of the month, provide a Collection Report for approval and electronically transfer collected funds to the CLIENT in accordance with the CONTRACTOR service fee agreement outlined in the pricing section herein.
- 1.10. Provide ongoing client and user support.

CLIENT shall:

1. CLIENT Obligations:

- 1.1. **CLIENT Obligations - General:** CLIENT shall be obligated to use its best efforts to perform or provide the following:

- 1.1.1. **Provide Information:** CLIENT shall make available to CONTRACTOR any documents, data, or information necessary for CONTRACTOR to plan and provide the services described in this AGREEMENT, and that are within CLIENT's possession or control and are not privileged or subject to privacy protections. Examples of this data might be aircraft fee rates, collections records, based aircraft lists, etc.
- 1.1.2. **Point of Contact:** CLIENT shall designate a representative authorized to act on behalf of CLIENT for the duration of this AGREEMENT.
- 1.1.3. **Timely Response:** CLIENT shall, within a reasonable time, examine documentation, correspondence, invoices, and statements submitted to CLIENT for review by CONTRACTOR and respond as necessary within a reasonable time.

1.2. CLIENT Obligations - *PLANEPASS*®

- 1.2.1. **Financial Point of Contact:** CLIENT shall designate a representative authorized to act on behalf of CLIENT for the duration of this AGREEMENT in the capacity of reviewing *PLANEPASS*® financial reports and interfacing with CONTRACTOR's *PLANEPASS*® team from time to time on issues such as based aircraft lists, fee rate updates, airport fee policies, and exemption requests.
- 1.2.2. **Exemption List:** CLIENT will provide CONTRACTOR with a list of aircraft designated as exempt (the "exemption list") from the fee types managed by CONTRACTOR. CLIENT will provide updates to the exemption list on a monthly basis via email to datainput@vector-us.com CLIENT shall not bill "exempt" aircraft included on the exemption list for fee types managed by CONTRACTOR. "Exempt" is understood to mean not billed by any party.
- 1.2.3. **Payments Received by CLIENT:** CLIENT shall not accept payments for fees invoiced by CONTRACTOR. To ensure proper accounting, if CLIENT receives a payment on-site or electronically for an invoice generated by CONTRACTOR, CLIENT will either refund payments directly to payors or remit the funds to CONTRACTOR.
- 1.2.4. **Fee Types Managed by CONTRACTOR:** The specific aircraft operating fee types placed under CONTRACTOR's management via this AGREEMENT served as an inducement for CONTRACTOR to enter into this AGREEMENT and were integral in determining CONTRACTOR's fee for professional services. If during the Term or any Option Year CLIENT wishes to remove a fee type from CONTRACTOR's management, CLIENT shall request CONTRACTOR provide an opinion as to whether the removal materially alters the Scope of Work of this AGREEMENT. If in the judgement of CONTRACTOR, the requested change does

constitute a material alteration in Scope, the parties shall engage in good-faith negotiations regarding an amendment to CONTRACTOR's service fee. If the parties are unable to produce a mutually acceptable amendment, CONTRACTOR reserves the right to terminate this AGREEMENT for convenience by providing 90 days' notice.

- 1.2.5. **Airport Policy:** CLIENT shall be responsible for setting CLIENT policy as it pertains to aircraft fee billing, including but not limited to fee structures, types of aircraft activities deemed billable, and other matters that may involve CONTRACTOR's Work in the performance of this AGREEMENT. CONTRACTOR accepts no responsibility and expresses no opinion as to the legality of aircraft fee billing policies instituted by the CLIENT. The CLIENT is responsible for communicating these policies to the appropriate CLIENT stakeholders including the flying community.

- 1.2.5.1. **Fee Changes:** All fee changes, including but not limited to rates and billing rules, must be communicated in writing via email to datainput@vector-us.com at least sixty (60) calendar days prior to implementation.

- 1.2.6. **Authorization to Bill & Authorization to Collect Documentation:** CLIENT shall provide to CONTRACTOR within thirty (30) calendar days of AGREEMENT execution an "Authorization to Bill & Collect" letter with materially similar form and content to the example provided in EXHIBIT B. The letter must be provided on the official letterhead of the CLIENT and signed by an authorized representative of the CLIENT.

CLIENT shall provide to CONTRACTOR within thirty (30) calendar days of AGREEMENT execution an "Authorization to Collect" letter with materially similar form and content to the example provided in EXHIBIT C. The letter must be provided on the official letterhead of the CLIENT and signed by an authorized representative of the CLIENT.

- 1.2.6.1. No later than thirty (30) days following the COMMENCEMENT DATE, CLIENT will provide the "Authorization to Bill & Collect" letter on the webpage where fee information is displayed for public view. CLIENT may either provide a link to the letter in PDF form or post the content of the Letter itself on the fee page.
- 1.2.6.2. No later than thirty (30) days following the COMMENCEMENT DATE, CLIENT will provide a link to CONTRACTOR's secure payment portal on the webpage where fee information is displayed for public view. The link shall include the following information in materially similar form and content:

Vector offers a self-service web portal for convenient online payments and account management at <https://payment.PLANEPASS.com>. The portal* allows aircraft operators to:

- 1) Update contact information, including email or postal mail addresses
- 2) Process credit card payments
- 3) Enroll in electronic invoicing
- 4) View account history

- 5)** Request copies of invoices via email or download Excel-formatted invoices
**The portal login is based on Vector invoice number and Vector operator ID*

EXHIBIT B – Authorization to Bill Letter

DATE

Dear Brownsville/South Padre Island International Airport Community,

Effective DATE, Vector Airport Systems (“Vector”) assumed the billing and collection of landing fees on behalf of Brownsville/South Padre Island International Airport (BRO). {If applicable: For all operations occurring until midnight on DATE, Brownsville/South Padre Island International Airport will bill and continue to collect landing fees for commercial and/or general aviation flight activity.)

“Landing fees” is a commonly used term that refers to aircraft operating fees. Landing fees for BRO are currently charged using the time of departure/arrival {choose one}. Please be aware that touch-and-go operations are considered departures/arrivals and thus are billed.

Vector will assess and bill fees in accordance with the Airport’s established Landing Fee schedule located at: _____. [The Airport should insert a web hyperlink to the City/County website stating the established fee] Please note that landing fees are calculated using the aircraft’s FAA-certified MTOW/MLW {Choose one}.

Vector transmits a monthly invoice to an aircraft’s registered owner or managing entity after the conclusion of each monthly billing cycle. Vector offers a self-service web portal for convenient online payments and account management at <https://payment.planepass.com>.

- **Vector’s self-service web portal* allows aircraft operators to:**
 - 1) Update contact information, including email or postal mail addresses
 - 2) Process credit card payments
 - 3) Enroll in electronic invoicing
 - 4) View account history
 - 5) Request copies of invoices via email or download Excel-formatted invoices

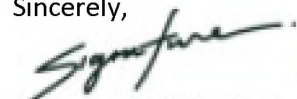
**The portal login is based on Vector invoice number and Vector operator ID*

For billing questions or concerns, please contact Vector’s PLANEPASS® billing service team at billing@vector-us.com or (888) 588-0028 Option 01 or x700.

- *Vector’s office hours are M-F, 9am ET – 5pm ET with most federal holidays observed as well as the Friday after Thanksgiving and Christmas Eve.*

The Airport’s Administration Office staff may also be reached [insert email].

Sincerely,



JOHN MARK
CEO

[insert signature - preferably a cursive version of your wet signature]

EXHIBIT C – Authorization to Collect Letter

DATE

Dear Brownsville/South Padre Island International Airport Aircraft Operator,

Since DATE, Vector Airport Systems (“Vector”) has managed the billing and collection of landing fees on behalf of Brownsville/South Padre Island International Airport (BRO). Vector is authorized to collect balances due on the Airport’s behalf.

Brownsville/South Padre Island International Airport (BRO) is aware of the outstanding balance owed on your account. Please remit payment to Vector immediately. The Airport does not accept payments directly. Further action may be taken if payment is not made in the next 10 business days.

I. **How To Pay:** Vector offers multiple payment methods:

- For check or EFT payments, please use the following information:

Account Name:	Vector- Brownsville/South Padre Island International Airport
Lockbox Address:	
Account Number:	
Bank Name:	
Bank ABA Routing Number:	
International Wire Number*:	
SWIFT Code	

- For credit card payments, please visit Vector’s *PLANEPASS*® Payment Portal: <https://payment.planepass.com>

II. **Billing Concerns & Account Management with Activity Details:**

Vector’s *PLANEPASS*® Payment Portal (<https://payment.planepass.com>)* allows aircraft operators to:

- 1) Make credit card payments
- 2) Update account information including email and postal mail addresses
- 3) View airport fee structures, Authorization to Bill letters, and W9s
- 4) Enroll in electronic invoicing
- 5) View account history
- 6) View and download invoices as .csv files for use in MS Excel

**The portal login is based on your Vector invoice number and Vector operator ID.*

You may contact Vector at billing@vector-us.com or (888) 588-0028 Option 01 or Extension 700.

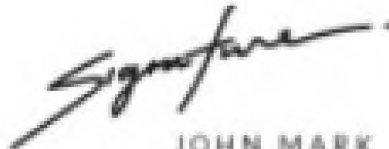
- o *Vector’s office hours are M-F, 9am ET – 5pm ET with most federal holidays observed as well as the Friday after US Thanksgiving and Christmas Eve.*

III. **Landing fees:** Landing fees for Airport BRO are based upon arrival/DEPARTURE and are not an arrival/DEPARTURE fee. Vector assesses and bills these fees in accordance with the established landing fee structure located at: [insert link to proper Airport webpage]

If you have questions unrelated to billing, you may contact the Airport's Administration Office staff at [insert email] and [phone number].

Sincerely,

[insert personalized signature – this should be your unique personalized signature like this one:]



JOHN MARK
CEO



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Jarrett Sheldon, Fire Chief
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve **Resolution Number 2023-129** to purchase a Fire Engine and Rear Mount Platform Truck with associated equipment for the Brownsville Fire Department to be paid with the issuance of future Certificates of Obligation. (Fire Department)

Summary:

The purpose of this project is to acquire a Platform Ladder Truck and a Fire Pumper to enhance the firefighting capabilities of the Brownsville Fire Department. With supply chain issues and extended lead times posing significant challenges in the procurement process, it is imperative to secure funding through a city commission resolution promptly. By doing so, we can ensure the timely acquisition of these essential firefighting assets, safeguarding the safety and well-being of our community. By affirming this resolution by City Commission, a purchase order will be issued for the Fire Pumper in the amount of \$1,156,415 on or before the end of December 2024 and another purchase order in the amount of \$2,101,013 for the Platform Ladder Truck on or before June 2025. These units will become primary response units for aging fleet with consistent maintenance issues or are no longer serviceable. Due to the ongoing issues nationwide associated with new vehicles, it has been difficult to acquire emergency vehicles in a timely manner.

Project Scope and Analysis:

A city commission resolution in support of the procurement of these vehicles will enable the Brownsville Fire Department to be placed in line for the acquisition. This timely acquisition will empower our fire department to address emergencies more efficiently and effectively, protecting lives and property within our community. By securing the resources early, we can lock in pricing for the Platform Ladder Truck and Fire Pumper, shielding us from potential price fluctuations caused by uncertainties in the market. This ensures a cost-effective investment, maximizing the value of taxpayer funds and supporting the city's long-term financial stability.

Funding:

Source: N/A

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

Recomend approval

Commission Pillar:

Public Safety

Attachments:

1. Resolution to Secure Funding for Platform and Pumper
2. Fire Apparatus and Rear Mount Platform Resolution (JMA edits v1_10.23.2023)
3. Exhibit A Brownsville Rear Mount Platform Proposal
4. Exhibit A Brownsville Pumper Proposal



Resolution to Secure Funding for Fire Apparatuses



Securing Funding for Firefighting Assets

The approval of a resolution passed by City Commission is essential to secure funding for a Platform Ladder Truck and Fire Pumper.

- By securing funding early, we can lock in pricing for the Platform Ladder Truck and Fire Pumper, shielding us from potential price fluctuations caused by market uncertainties and disruptions in supply chain issues
- An approval by city commission resolution in favor of funding will expedite the procurement process, allowing us to secure the required vehicles and equipment promptly.

RESOLUTION NUMBER 2023-129

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE AUTHORIZING THE BROWNSVILLE FIRE DEPARTMENT TO PURCHASE A FIRE ENGINE AND REAR MOUNT PLATFORM TRUCK WITH ASSOCIATED EQUIPMENT FOR THE BROWNSVILLE FIRE DEPARTMENT TO BE PAID WITH THE ISSUANCE OF FUTURE CERTIFICATES OF OBLIGATION.

WHEREAS, the City Commission of the City of Brownsville (the “City Commission”) finds it is in the best interest of the citizens of Brownsville to purchase one (1) Spartan S-180 Model 3106 Fire Engine with associated equipment, to be delivered by December 2024 and one (1) Spartan 100’ Rear Mount Platform Ladder Truck with associated equipment to be delivered by June 2025, (collectively called the “Trucks”) both for the Brownsville Fire Department (“BFD”) (See Exhibit A); and

WHEREAS, the Trucks will include up-to-date and essential emergency equipment to equip the BFD; and

WHEREAS, the City Commission has been advised that acceptable and constitutional financing has been identified and is being coordinated by BFD, in conjunction with the Financial Services Department, to purchase the necessary apparatus and equipment; and

WHEREAS, Metro Fire Apparatus Specialists, Inc. will not honor quotes dated August 8, 2023, or build the ordered trucks absent issuance of a Purchase Order; and

WHEREAS, the City of Brownsville City Commission has determined it is in the best interest of Brownsville to permit the BFD to move forward with arrangements to take advantage of the current pricing opportunity on the apparatus and rear mount platform.

NOW THEREFORE, BE IT RESOLVED that the City of Brownsville City Commission hereby authorizes the purchase of one (1) Spartan S-180 Model 3106 Fire Engine with associated equipment for \$1,156,415 and one (1) Spartan 100’ Rear Mount Platform with associated equipment for \$2,101,013 to be paid with the issuance of future Certificates of Obligation.

PASSED AND APPROVED by the City Commission of the City of Brownsville, Texas this _____ day of _____, 2023

John Cowen, Jr.
Mayor

Attest:

Yolanda Galarza-Gomez
City Secretary



Metro Fire Apparatus Specialists, Inc.
17350 State Hwy 249, Suite 250
Houston, Texas 77064-1142
713.692.0911 Office
www.mfas.com

PROPOSAL

Tuesday, August 08, 2023

Brownsville Fire Department
Fire Chief Jarrett Sheldon
1150 E Adams Street, 2nd Floor
Brownsville, TX 78520

The undersigned is prepared to furnish for you, upon an order being placed by you, for final acceptance by Metro Fire Apparatus Specialists, Inc at its office in Houston, Texas the apparatus and equipment herein named and for the following prices:

One (1) Spartan Rear Mount Platform on a Gladiator Chassis and equipment as specified:

Rear Mount Platform w/Equipment Price \$2,099,013.00
HGAC Fee \$2000.00

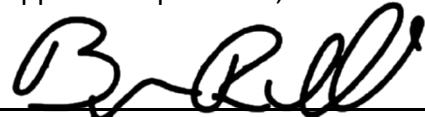
TOTAL \$2,101,013.00

No State, Federal or local taxes included.

The apparatus and equipment are to be supplied and shipped in accordance with the specifications and approvals of the Brownsville Fire Department. Production time is the number of days required to manufacture the apparatus itself. Delays due to strikes, war or other causes beyond our control not preventing, within 675 calendar days. The completed apparatus will be delivered to you at:

Brownsville Fire Department
Brownsville, Texas 78520

Unless accepted within 30 days from this date, Metro Fire Apparatus Specialists, Inc. reserves the right to withdraw or adjust this proposal.

By 
Brian Russell – Apparatus Manager

TERMS:

Payment due upon delivery and acceptance of completed apparatus.



Metro Fire Apparatus Specialists, Inc.
17350 State Hwy 249, Suite 250
Houston, Texas 77064-1142
713.692.0911 Office
www.mfas.com

PROPOSAL

Tuesday, August 08, 2023

Brownsville Fire Department
Fire Chief Jarrett Sheldon
1150 E Adams Street, 2nd Floor
Brownsville, TX 78520

The undersigned is prepared to furnish for you, upon an order being placed by you, for final acceptance by Metro Fire Apparatus Specialists, Inc at its office in Houston, Texas the apparatus and equipment herein named and for the following prices:

One (1) Spartan Pumper on a Metro Star Chassis and equipment as specified:

Pumper w/Equipment Price \$1,154,415.00
HGAC Fee \$2000.00

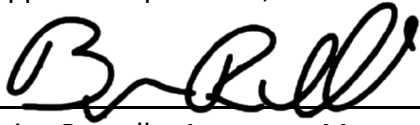
TOTAL \$1,156,415.00

No State, Federal or local taxes included.

The apparatus and equipment are to be supplied and shipped in accordance with the specifications and approvals of the Brownsville Fire Department. Production time is the number of days required to manufacture the apparatus itself. Delays due to strikes, war or other causes beyond our control not preventing, within 420 calendar days. The completed apparatus will be delivered to you at:

Brownsville Fire Department
Brownsville, Texas 78520

Unless accepted within 30 days from this date, Metro Fire Apparatus Specialists, Inc. reserves the right to withdraw or adjust this proposal.

By 
Brian Russell – Apparatus Manager

TERMS:

Payment due upon delivery and acceptance of completed apparatus.



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Jarrett Sheldon, Fire Chief
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** for the purchase of two (2) remounted ambulances from Classic Chevrolet Fleet & Commercial in the amount of \$474,875 as budgeted in the fiscal year 2023 Capital Improvement Program (CIP). Contract #029-24-FIR-SA (Fire Department)

Summary:

This item is to request approval to remount two ambulances onto a 2023 Chevy C3500 Gas Chassis that will become the primary response unit for an aging fleet with high mileage and consistent maintenance issues. The currently aged ambulances have reached a point of being unreliable for emergency responses and have been placed in a reserve status or have been utilized in non-emergency functions in other city departments. The patient compartment module (ambulance box) will be completely restored and upgraded to ensure all industry standards are met while enhancing the safety of our personnel and patients.

This is part of a multi-year plan to replace 2 ambulances this fiscal year with 9 replacements scheduled over the 5 year Capital Improvement Program (CIP) schedule.

Project Scope and Analysis:

The ambulances were originally purchased with the intention and possibility of remounting the patient compartment module to a new chassis over the life span of the ambulance. The patient compartment module is covered under a lifetime warranty including remounts if completed by the original manufacturer. The chassis will be replaced on a gasoline engine which has been proven effective in reducing out of service time and lower maintenance costs. It is in the best interest of the community to purchase the remounts that will provide expedient turnaround to ensure a continuity of service for Emergency Management Services (EMS).

Funding:

Source: CIP 2023

Amount: \$474,875

Local Contribution if Applicable:

Recommendation:

Staff recommends approval of this purchase, subject to final review and approval of the contract documents by the City Attorney.

Commission Pillar:

Public Safety Pillar

Attachments:

1. 029-24-FIR-SA - Frazer Sales Agreement - Two Ambulances _Approved by Legal V2
2. 029-24-FIR-SA - Procurement Analysis (1)

**CITY OF BROWNSVILLE SALES AGREEMENT FOR PURCHASE TWO (2) REMOUNTED
AMBULANCES. Contract #029-24-FIR-SA**

1. **This Agreement is entered into as of Tuesday, November 7, 2023 between The City of Brownsville, Texas, collectively hereinafter referred to as ("CITY") and Classic Chevrolet Fleet & Commercial hereinafter referred to as ("SELLER").**
2. **Documents**
 - a. The following documents (collectively, "Contract Documents") are hereby incorporated into and made part of this Agreement.
 - i. Quote (Exhibit A)
 - ii. Insurance (Exhibit B)
3. **Sale of Goods**
 - a. Pursuant to the terms and conditions of this Agreement, the Seller agrees to transfer ownership and deliver possession to the CITY, and the CITY shall pay for and accept from the Seller, the "Goods" listed at such prices as agreed by the Parties in this Agreement. Under no circumstances shall Seller, or any of Seller's employees, look to CITY as his/her employer, or as a partner, agent or principal. Neither Seller, nor any of Seller's employees, shall be entitled to any benefits accorded to CITY's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. Seller shall be responsible for providing, at Seller's expense, and in Seller's name, unemployment, disability, worker's compensation and other insurance, as well as any and all licenses and permits usual or necessary for conducting the Services. Seller shall be responsible for paying all applicable local, state and federal taxes.
 - b. Seller represents and warrants to CITY that its employees performing Work hereunder will have sufficient expertise, training, licensure (if applicable) and experience to accomplish the Services.
4. **Delivery Terms.**
 - a. The products listed on Exhibit A are to be delivered to the Brownsville Fire Department located at 1001 E. Elizabeth Dr, Brownsville TX 78520, US.
5. **Compensation**
 - a. The seller agrees that compensation for services shall be as specified in the Contract Documents "Exhibit A". It is acknowledged and agreed by Seller that compensation as enumerated in Exhibit A constitutes a limitation upon CITY's obligation to compensate Seller for Seller's services pursuant and related to this Agreement, but it does not constitute a limitation of any sort upon Seller's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.
 - b. Seller shall submit one (1) original invoice per payment due. The invoice(s) shall include the items listed in accordance with the quote mentioned in the Sale Agreement with reference to the City's Purchase Order Number. Payment shall be due upon receipt of the invoice and delivery of the unit to the Customer unless previously negotiated.
6. **Insurance**
 - a. The Seller shall furnish proof of insurance requirements as specified in Contract Documents "Exhibit B". The coverage is to remain in force at all times during the contract period and the minimum insurance coverage is required. The commercial general liability insurance policy shall name the City of Brownsville, Texas, as an "additional insured." This MUST be written in the description section of the insurance certificate, even if there is a check-off box on the insurance certificate. Any costs for adding the City as "additional insured" shall be at the Seller's expense.
 - b. The CITY shall be given notice 10 days prior to cancellation or modification of any required insurance. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of

the Seller to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Procurement Services Division.

- c. The Seller's insurance must be provided by an A.M. Best's "A-"rated or better insurance company authorized to issue insurance policies in the State of Texas, subject to approval by the City of Brownsville Department of Safety and Risk Management. Any exclusions or provisions in the insurance maintained by the Seller that excludes coverage for work contemplated in this solicitation shall be deemed unacceptable, and shall be considered breach of contract.

7. Termination

- a. *Termination for Cause.* The aggrieved party may terminate this Agreement for cause if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. CITY may also terminate this Agreement upon such notice as the City of Brownsville's City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health or safety. The parties agree that if the CITY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

This Agreement may be terminated for cause for reasons including, but not limited to, Seller's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to perform the Work to CITY's satisfaction; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.

- b. *Termination for Convenience.* CITY reserves the right, in its best interest as determined by the City of Brownsville's City Manager, to cancel this contract for convenience by giving written notice to the Seller at least thirty (30) days prior to the effective date of such cancellation. In the event this Agreement is terminated for convenience, Seller shall be paid for any services performed to CITY's satisfaction pursuant to the Agreement through the termination date specified in the written notice of termination. Seller acknowledges and agrees that he/she/it has received good, valuable and sufficient consideration from CITY, the receipt and adequacy of which are hereby acknowledged by Seller, for CITY's right to terminate this Agreement for convenience.
- c. *Cancellation for Non-appropriated Funds.* CITY reserves the right, in its best interest as determined by the City of Brownsville's City Manager, to cancel this contract for non-appropriated funds or unavailability of funds by giving written notice to the Seller at least thirty (30) days prior to the effective date of such cancellation. The obligation of CITY for payment to a Seller is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise provided by law.
- d. *Force Majeure.* CITY and Seller will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:
 - i. The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
 - ii. The excuse of performance is of no greater scope and of no longer duration than is reasonably necessary when considered in light of the Force Majeure;
 - iii. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
 - iv. The non-performing party uses its best efforts to remedy its inability to perform.

- v. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of sixty (60) days, provided that in extenuating circumstances, CITY may excuse performance for a longer term. Economic hardship of the Seller will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

8. Indemnity

SELLER SHALL INDEMNIFY, DEFEND AND HOLD CITY, ITS COMMISSION, OFFICERS, EMPLOYEES AND AGENTS HARMLESS FROM ANY AND ALL MANNER OF SUITS, CLAIMS OR DEMANDS (1) ARISING OUT OF OR RELATING TO SELLER'S, ITS EMPLOYEES', AGENTS' AND SUBSELLERS' ACTS OR OMISSIONS ARISING UNDER THE PERFORMANCE OF THIS AGREEMENT; (2) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SELLER, ITS AGENTS, EMPLOYEES OR SUBSELLERS; (3) SELLER'S BREACH OF ANY REPRESENTATION, WARRANTY, COVENANT OR OTHER OBLIGATION HEREUNDER; AND (4) THE INFRINGEMENT OF ANY THIRD PARTY PROPRIETARY RIGHTS WITH RESPECT TO GOODS OR SERVICES SUPPLIED TO CITY IN CONNECTION WITH THIS AGREEMENT (EACH OF WHICH IS AN "INDEMNIFYING ACT"). SELLER SHALL REIMBURSE CITY FOR ANY AND ALL COSTS, DAMAGES AND EXPENSES INCLUDING REASONABLE ATTORNEY'S FEES TO WHICH CITY MAY BE SUBJECT AS A RESULT OF THE OCCURRENCE OF ANY INDEMNIFYING ACT.

9. Materiality and Waiver of Breach.

- a. CITY and Seller agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof. CITY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement

10. Miscellaneous Provisions.

- a. *Successors and Assigns.* All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.
- b. *Choice of Law.* The laws of the state of Texas shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.
- c. *No Waiver of Governmental Immunity.* NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO WAIVE CITY'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.
- d. *Assignment.* Seller shall not assign any of Seller's rights under this Agreement, or delegate the performance of any of Seller's duties hereunder, without the prior consent of CITY.
- e. *Modification or Amendment.* No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.
- f. *Venue.* This Agreement and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the Laws of the State of Texas, in the Federal and State Courts of Cameron County, Texas having jurisdiction. (b) If at any time there is a dispute between or among the Parties with respect to any matter arising directly or indirectly from this Agreement (an "Agreement Matter"), the Parties agree that, prior to seeking judicial remedy, they will engage in face-to-face negotiations in an attempt to resolve such dispute and shall, upon failing to negotiate a mutually-satisfactory resolution, choose a mutually agreeable neutral third party to mediate such dispute. Mediation shall be non-binding and shall be confidential.

- g. *Notices.* Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

If to Seller: Classic Chevrolet Fleet & Commercial
2501 William D Tate Ave. Bldg D
Grapevine, TX 76051

If to CITY: City of Brownsville
1001 E. Elizabeth St.
Brownsville, Texas, 78521

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

- h. *Entire Understanding.* This document and any exhibit attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.
- i. *Unenforceability of Provisions.* If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above.

CITY OF BROWNSVILLE

SELLER

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Customer Quote



10/10/2023 2:52:52 PM

Estimate No: Q3823-0001
Quote Date: 10/10/2023
Expiration Date: 11/24/2023
Salesperson: KS
Payment Terms: Due on Delivery

Invoice To: 10123
Aaron Lopes
Brownsville Fire Department
City of Brownsville
1001 E. Elizabeth Dr.
Brownsville TX 78520
US

Deliver To:
Aaron Lopes
Brownsville Fire Department
City of Brownsville
1001 E. Elizabeth Dr.
Brownsville TX 78520
US

No.	Item	Qty	U/M:		Unit Price		Net Amount
1	MODULE Type I 12' XT Remount	1.00	EA	\$	177,300.00	\$	177,300.00
E-1939							
2	CHASSIS 2023 Chevy C3500 Gas	1.00	EA	\$	56,750.00	\$	56,750.00
3	DELIVERY Customer Pick Up - FOB - Frazer	1.00	M	\$	0.00	\$	0.00
4	CONTINGENCY Customer Contingency Fund	1.00	EA	\$	5,000.00	\$	5,000.00
5	SpecDoc Configurable item to create the SpecDoc	1.00	EA	\$	0.00	\$	0.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. .

Customer Quote



10/10/2023 2:52:52 PM

Estimate No: Q3823-0001
Quote Date: 10/10/2023
Expiration Date: 11/24/2023
Salesperson: KS
Payment Terms: Due on Delivery

No.	Item	Qty	U/M:		Unit Price		Net Amount
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Remit To:

Frazer, Ltd.
7219 Rampart Street
Houston TX 77081

Sale Amount: 239,050.00
Order Disc(0.0000%): 0.00
Surcharge: N/A
Sales Tax: 0.00
Misc Charges: 0.00
Total Amount: 239,050.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. :



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For your convenience, all module pricing has been itemized below per quote Q3823-0001 for Brownsville Fire Department :

Base Module	\$	28,125.00
Chassis Exterior	\$	26,725.00
Module Exterior	\$	72,825.00
Chassis Interior	\$	3,275.00
Module Interior	\$	46,350.00
Module Total	\$	177,300.00

Items included in above totals:

1. Old Chassis: Do nothing	\$	incl
2. Type I 12' XT Module	\$	incl

Chassis Exterior:

3. Chassis Paint Layout: Paint All One Color - G7C - Red Hot	\$	6,650.00
4. Chassis : 2023 Chevy 3500, Gas, 4x2, Regular Cab, 84" Cab to Axle, GAZ - Summit White (FLNA 40005)	\$	incl
5. Suspension: LiquidSpring	\$	15,550.00
6. Wheel type: Stainless steel covers	\$	incl
7. Dual Dynamics Valve Stem Extender with Equalization and Pressure Indicator	\$	375.00
8. Road Force Elite tire and wheel balancing	\$	incl
9. Chassis Steps: ArcRite with Sure Grip	\$	1,350.00
10. Grille Guard: Grille Guard with Wraparounds	\$	incl
11. 10" and 12" Air Horns	\$	1,450.00
12. Compressor Type: Standard	\$	850.00
13. Air Horn Switching Options: Momentary	\$	125.00
14. Window Tint (35% VLT) on Chassis Doors	\$	375.00
15. Passenger's side Grille Light: Whelen M4 Red Light	\$	incl
16. Driver's side Grille Light: Whelen M4 Red Light	\$	incl
17. Passenger's side Intersect Light: Whelen M4 Red Light	\$	incl
18. Driver's side Intersect Light: Whelen M4 Red Light	\$	incl
Chassis Exterior Subtotal	\$	26,725.00

Module Exterior:

19. New Power Source: Onan 5.5kW Generator	\$	9,975.00
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20. New Corner Trim	\$	incl
21. New Corner Caps	\$	incl
22. 35 hour(s) of Body Work	\$	4,375.00
23. Module Paint Layout: Non-White One Tone - G7C - Red Hot	\$	21,900.00
24. Supertherm Coating on Module Roof	\$	1,350.00
25. Rear Wall 3M Conspicuity Layout - Chevron : Fluorescent Yellow/Green Base Color and Red - Translucent Overlay	\$	2,025.00
26. Frazer Provided Graphics	\$	3,000.00
27. Graphics Write-In Option 1: Rear wall conspicuity to be installed around perimeter of rear entry doors only; not on the doors	\$	incl
28. Hidden Switch Behind the Driver's Side Rear Bumper End Cap	\$	300.00
29. Shore Power: Single 30 Amp	\$	1,050.00
30. Pigtail/Plug Option: Pigtail	\$	incl
31. Install Ignition Kill Switch	\$	375.00
32. Front Wall Light Layout: Lower 5 Lights	\$	incl
33. Front Wall Light #1: Whelen M6 Red Light	\$	275.00
34. Front Wall Light #2: Whelen M6 Red Light	\$	275.00
35. Front Wall Light #3: Whelen M6 Clear Light	\$	275.00
36. Front Wall Light #4: Whelen M6 Red Light	\$	275.00
37. Front Wall Light #5: Whelen M6 Red Light	\$	275.00
38. Front Wall Driver Side Box Light: Whelen M6 Red Light	\$	275.00
39. Front Wall Passenger Box Light: Whelen M6 Red Light	\$	275.00
40. Driver Wall Front Box Light: Whelen M6 Red Light	\$	275.00
41. Driver Wall Rear Box Light: Whelen M6 Red Light	\$	275.00
42. Driver Wheel Well Light: Whelen M6 Red Light	\$	275.00
43. Converter Flanges For Wheel Well Lights	\$	200.00
44. Side Scene Lights: Frazer Standard Whelen M9 Chrome Housing	\$	2,050.00
45. New O2 Rollers for an H Cylinder	\$	775.00
46. New Lambda Power Supply	\$	2,025.00
47. New Battery Charger	\$	550.00
48. New Dometic A/C with Exhaust Fan	\$	8,000.00
49. A/C Retrofit Compartment	\$	2,025.00
50. All Cladding/Treadbrite: New	\$	1,225.00
51. *Note to Engineering* Unit has small I/O compartment above rear D/S compartment	\$	incl

52. Module Window Option: Sliding Window	\$	incl
53. Window Tint (5% VLT) on Rear and Side Entry Doors	\$	375.00
54. Upper Rear Wall Light Layout: 3 Across	\$	incl
55. Upper Light #1: Whelen M6 Load Light	\$	450.00
56. Upper Light #2: Whelen M6 Amber Light	\$	275.00
57. Upper Light #3: Whelen M6 Load Light	\$	450.00
58. Lower Light #1: Whelen M6 Brake/Tail/Turn Red Light	\$	225.00
59. Lower Light #2: Whelen M6 Brake/Tail/Turn Red Light	\$	225.00
60. Lower Light #3: Whelen M6 Amber Light	\$	275.00
61. Lower Light #4: Whelen M6 Amber Light	\$	275.00
62. Rear Wall Driver Box Light: Whelen M6 Red Light	\$	275.00
63. Rear Wall Passenger Box Light: Whelen M6 Red Light	\$	275.00
64. Converter Flanges For Box Lights	\$	800.00
65. Converter Flanges For Emergency Lights	\$	1,200.00
66. Lower BTTs: 2 Grote Lights on each side	\$	incl
67. New Rear Bumper	\$	950.00
68. New Door Grabbers	\$	incl
69. New Cast License Plate Light	\$	incl
70. Passenger Wall Front Box Light: Whelen M6 Red Light	\$	275.00
71. Passenger Wall Rear Box Light: Whelen M6 Red Light	\$	275.00
72. Passenger Wheel Well Light: Whelen M6 Red Light	\$	275.00
73. Replace Gas Hold-Open at Side Entry	\$	incl
74. New Door Locks on Entry Doors and Front I/O	\$	2,000.00
Module Exterior Subtotal	\$	72,825.00

Chassis Interior:

75. Siren Speakers: Whelen SA 315 Speakers	\$	incl
76. Tap-2 on Primary Siren	\$	incl
77. Siren Option: Whelen C9 Siren in Console	\$	incl
78. Mic 1 on passenger's side slot 1	\$	incl
79. HAAS Alert System: HAAS Alert Responder to Vehicle - 3 Year Sub	\$	incl
80. Slot 1: Double Slot Switch Panel	\$	incl
81. Slot 2: Joined with 1	\$	incl



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82. Slot 3: Siren 1	\$	incl
83. Slot 4: Radio Plate: 7.5 L X 2.5 W opening dims	\$	incl
84. Slot 5: Double Blank Insert	\$	250.00
85. Slot 6: Joined with 5	\$	incl
86. Console Switch Layout : Primary - Secondary - Air Horn - Blank - Blank - Blank - Blank - Rear Load - Interior Lights - Side Scene (Driver's Side) - Side Scene (Passenger's Side) - Start/Stop Genset -	\$	incl
87. New Armrest	\$	300.00
88. Console Layout: 6-Slot Console	\$	incl
89. Floor in Front of Console: Gamber Johnson Heavy Dual Cup Holder	\$	250.00
90. Rear of Console: Single Mapholder	\$	300.00
91. Camera System: Voyager 7" Monitor with Back-Up Camera	\$	2,175.00
92. White Back-up Camera	\$	incl
Chassis Interior Subtotal	\$	3,275.00

Module Interior:

93. New Ceiling Lasco, including New Padded Ceiling Raceways and New IV Hangers	\$	2,675.00
94. New Wall Lasco, including New Head Knockers and New Corner Knockers	\$	4,650.00
95. New Cobalt Blue Interior Trim	\$	500.00
96. New Protek Cushions at the CPR Seat and Squad Bench	\$	1,825.00
97. Stainless Steel Side and Rear Entry Door Grab Rails (price covered under new Module Paint)	\$	incl
98. Stainless Steel Side and Rear Wall Grab Rail (price covered under new Wall Lasco)	\$	incl
99. UNOC #1991 - Furnish and install Life Defender cabinet fronts on ALL interior cabinets.	\$	4,600.00
100. New Front I/O with Lexan Doors	\$	2,025.00
101. New Front Wall Cabinet(s)	\$	1,550.00
102. 15 Qt. Engel Fridge	\$	1,225.00
103. New Driver Side Stainless and New Stainless Steel Countertops	\$	1,225.00
104. New Action Wall Cabinet	\$	950.00
105. New Action Wall with SSCOR Suction	\$	1,500.00
106. Location 1: 4 switch panel	\$	incl
107. Location 2: Existing Double O2 Outlet	\$	incl
108. Location 3: Thermostat	\$	incl
109. Location 4: Blank	\$	incl



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110. Location 6: Suction	\$	incl
111. Location 7: Quad 120 VAC	\$	incl
112. Location 8: Blank	\$	incl
113. Location 9: Blank	\$	incl
114. Action Wall Switch Layout : Interior Lights; Front Interior Light; Ventilation Fan; Blank;	\$	incl
115. Sharps Container at Action Wall	\$	250.00
116. Acrylic Holder at the Action Wall Cabinet	\$	375.00
117. New 6pt Harness at the CPR Seat	\$	700.00
118. Acrylic Holder Aft CPR Seat	\$	500.00
119. Genset Start/Stop Switch at Rear Doors	\$	incl
120. Rear Door Switch Layout : Acknowledge; Start/Stop Genset; Dump/Bypass (Suspension); Rear Load;	\$	incl
121. Two Seating Positions at the Squad Bench - 1 and 3	\$	incl
122. New Squad Bench Stainless	\$	950.00
123. Harness Type for Seat Position 1: New 6pt Harness	\$	700.00
124. Harness Type for Seat Position 3: New 6pt Harness	\$	700.00
125. 22 Pocket Acrylic Holder	\$	850.00
126. Double Squad Bench Cabinet	\$	850.00
127. Trashcan With Lid at the Head of the Squad Bench	\$	incl
128. Ship Loose - Fan next to squad bench O2 outlet	\$	incl
129. Install Evergreen UV-C air and surface disinfection lamp in ceiling raceway with control unit in electrical compartment	\$	6,000.00
130. IV Hanger on Ceiling Raceway	\$	incl
131. Driver Side Stainless Steel Ceiling Grab Rail for 12' Unit (price covered under new Ceiling Lasco)	\$	incl
132. Replace Existing Squad Bench IV Hanger with New	\$	incl
133. Head knocker options: No Clocks or Speakers	\$	incl
134. Stryker cot tower only (no antler and bar)	\$	incl
135. Floor Options: Stryker Floor Track Only (for Power-LOAD) - Gen 2	\$	3,350.00
136. New Loncoin II Sapphire Floor	\$	4,175.00
137. New Laydown O2	\$	550.00
138. Captain's Chair Type: Captain's Chair with Child Safety Seat and 4pt. Harness	\$	2,675.00
139. Customer Provided Items Processing Fee	\$	1,000.00



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Module Interior Subtotal	\$	46,350.00
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Customer Quote



10/10/2023 3:32:05 PM

Estimate No: Q3824-0001
Quote Date: 10/10/2023
Expiration Date: 11/24/2023
Salesperson: KS
Payment Terms: Due on Delivery

Invoice To: 10123
Aaron Lopes
Brownsville Fire Department
City of Brownsville
1001 E. Elizabeth Dr.
Brownsville TX 78520
US

Deliver To:
Aaron Lopes
Brownsville Fire Department
City of Brownsville
1001 E. Elizabeth Dr.
Brownsville TX 78520
US

No.	Item	Qty	U/M:		Unit Price		Net Amount
1	MODULE Type I 12' XT Remount	1.00	EA	\$	174,075.00	\$	174,075.00
X-1034/ E-1676							
2	CHASSIS 2023 Chevy C3500 Gas	1.00	EA	\$	56,750.00	\$	56,750.00
3	DELIVERY Customer Pick Up - FOB - Frazer	1.00	M	\$	0.00	\$	0.00
4	CONTINGENCY Customer Contingency Fund	1.00	EA	\$	5,000.00	\$	5,000.00
5	SpecDoc Configurable item to create the SpecDoc	1.00	EA	\$	0.00	\$	0.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. .

Customer Quote



10/10/2023 3:32:05 PM

Estimate No: Q3824-0001
Quote Date: 10/10/2023
Expiration Date: 11/24/2023
Salesperson: KS
Payment Terms: Due on Delivery

No.	Item	Qty	U/M:		Unit Price		Net Amount
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Remit To:

Frazer, Ltd.
7219 Rampart Street
Houston TX 77081

Sale Amount: 235,825.00
Order Disc(0.0000%): 0.00
Surcharge: N/A
Sales Tax: 0.00
Misc Charges: 0.00
Total Amount: 235,825.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. :



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For your convenience, all module pricing has been itemized below per quote Q3823-0001 for Brownsville Fire Department :

Base Module	\$	28,125.00
Chassis Exterior	\$	26,725.00
Module Exterior	\$	72,825.00
Chassis Interior	\$	3,275.00
Module Interior	\$	46,350.00
Module Total	\$	177,300.00

Items included in above totals:

1. Old Chassis: Do nothing	\$	incl
2. Type I 12' XT Module	\$	incl

Chassis Exterior:

3. Chassis Paint Layout: Paint All One Color - G7C - Red Hot	\$	6,650.00
4. Chassis : 2023 Chevy 3500, Gas, 4x2, Regular Cab, 84" Cab to Axle, GAZ - Summit White (FLNA 40005)	\$	incl
5. Suspension: LiquidSpring	\$	15,550.00
6. Wheel type: Stainless steel covers	\$	incl
7. Dual Dynamics Valve Stem Extender with Equalization and Pressure Indicator	\$	375.00
8. Road Force Elite tire and wheel balancing	\$	incl
9. Chassis Steps: ArcRite with Sure Grip	\$	1,350.00
10. Grille Guard: Grille Guard with Wraparounds	\$	incl
11. 10" and 12" Air Horns	\$	1,450.00
12. Compressor Type: Standard	\$	850.00
13. Air Horn Switching Options: Momentary	\$	125.00
14. Window Tint (35% VLT) on Chassis Doors	\$	375.00
15. Passenger's side Grille Light: Whelen M4 Red Light	\$	incl
16. Driver's side Grille Light: Whelen M4 Red Light	\$	incl
17. Passenger's side Intersect Light: Whelen M4 Red Light	\$	incl
18. Driver's side Intersect Light: Whelen M4 Red Light	\$	incl
Chassis Exterior Subtotal	\$	26,725.00

Module Exterior:

19. New Power Source: Onan 5.5kW Generator	\$	9,975.00
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20. New Corner Trim	\$	incl
21. New Corner Caps	\$	incl
22. 35 hour(s) of Body Work	\$	4,375.00
23. Module Paint Layout: Non-White One Tone - G7C - Red Hot	\$	21,900.00
24. Supertherm Coating on Module Roof	\$	1,350.00
25. Rear Wall 3M Conspicuity Layout - Chevron : Fluorescent Yellow/Green Base Color and Red - Translucent Overlay	\$	2,025.00
26. Frazer Provided Graphics	\$	3,000.00
27. Graphics Write-In Option 1: Rear wall conspicuity to be installed around perimeter of rear entry doors only; not on the doors	\$	incl
28. Hidden Switch Behind the Driver's Side Rear Bumper End Cap	\$	300.00
29. Shore Power: Single 30 Amp	\$	1,050.00
30. Pigtail/Plug Option: Pigtail	\$	incl
31. Install Ignition Kill Switch	\$	375.00
32. Front Wall Light Layout: Lower 5 Lights	\$	incl
33. Front Wall Light #1: Whelen M6 Red Light	\$	275.00
34. Front Wall Light #2: Whelen M6 Red Light	\$	275.00
35. Front Wall Light #3: Whelen M6 Clear Light	\$	275.00
36. Front Wall Light #4: Whelen M6 Red Light	\$	275.00
37. Front Wall Light #5: Whelen M6 Red Light	\$	275.00
38. Front Wall Driver Side Box Light: Whelen M6 Red Light	\$	275.00
39. Front Wall Passenger Box Light: Whelen M6 Red Light	\$	275.00
40. Driver Wall Front Box Light: Whelen M6 Red Light	\$	275.00
41. Driver Wall Rear Box Light: Whelen M6 Red Light	\$	275.00
42. Driver Wheel Well Light: Whelen M6 Red Light	\$	275.00
43. Converter Flanges For Wheel Well Lights	\$	200.00
44. Side Scene Lights: Frazer Standard Whelen M9 Chrome Housing	\$	2,050.00
45. New O2 Rollers for an H Cylinder	\$	775.00
46. New Lambda Power Supply	\$	2,025.00
47. New Battery Charger	\$	550.00
48. New Dometic A/C with Exhaust Fan	\$	8,000.00
49. A/C Retrofit Compartment	\$	2,025.00
50. All Cladding/Treadbrite: New	\$	1,225.00
51. *Note to Engineering* Unit has small I/O compartment above rear D/S compartment	\$	incl



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52. Module Window Option: Sliding Window	\$	incl
53. Window Tint (5% VLT) on Rear and Side Entry Doors	\$	375.00
54. Upper Rear Wall Light Layout: 3 Across	\$	incl
55. Upper Light #1: Whelen M6 Load Light	\$	450.00
56. Upper Light #2: Whelen M6 Amber Light	\$	275.00
57. Upper Light #3: Whelen M6 Load Light	\$	450.00
58. Lower Light #1: Whelen M6 Brake/Tail/Turn Red Light	\$	225.00
59. Lower Light #2: Whelen M6 Brake/Tail/Turn Red Light	\$	225.00
60. Lower Light #3: Whelen M6 Amber Light	\$	275.00
61. Lower Light #4: Whelen M6 Amber Light	\$	275.00
62. Rear Wall Driver Box Light: Whelen M6 Red Light	\$	275.00
63. Rear Wall Passenger Box Light: Whelen M6 Red Light	\$	275.00
64. Converter Flanges For Box Lights	\$	800.00
65. Converter Flanges For Emergency Lights	\$	1,200.00
66. Lower BTTs: 2 Grote Lights on each side	\$	incl
67. New Rear Bumper	\$	950.00
68. New Door Grabbers	\$	incl
69. New Cast License Plate Light	\$	incl
70. Passenger Wall Front Box Light: Whelen M6 Red Light	\$	275.00
71. Passenger Wall Rear Box Light: Whelen M6 Red Light	\$	275.00
72. Passenger Wheel Well Light: Whelen M6 Red Light	\$	275.00
73. Replace Gas Hold-Open at Side Entry	\$	incl
74. New Door Locks on Entry Doors and Front I/O	\$	2,000.00
Module Exterior Subtotal	\$	72,825.00

Chassis Interior:

75. Siren Speakers: Whelen SA 315 Speakers	\$	incl
76. Tap-2 on Primary Siren	\$	incl
77. Siren Option: Whelen C9 Siren in Console	\$	incl
78. Mic 1 on passenger's side slot 1	\$	incl
79. HAAS Alert System: HAAS Alert Responder to Vehicle - 3 Year Sub	\$	incl
80. Slot 1: Double Slot Switch Panel	\$	incl
81. Slot 2: Joined with 1	\$	incl



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82. Slot 3: Siren 1	\$	incl
83. Slot 4: Radio Plate: 7.5 L X 2.5 W opening dims	\$	incl
84. Slot 5: Double Blank Insert	\$	250.00
85. Slot 6: Joined with 5	\$	incl
86. Console Switch Layout : Primary - Secondary - Air Horn - Blank - Blank - Blank - Blank - Rear Load - Interior Lights - Side Scene (Driver's Side) - Side Scene (Passenger's Side) - Start/Stop Genset -	\$	incl
87. New Armrest	\$	300.00
88. Console Layout: 6-Slot Console	\$	incl
89. Floor in Front of Console: Gamber Johnson Heavy Dual Cup Holder	\$	250.00
90. Rear of Console: Single Mapholder	\$	300.00
91. Camera System: Voyager 7" Monitor with Back-Up Camera	\$	2,175.00
92. White Back-up Camera	\$	incl
Chassis Interior Subtotal	\$	3,275.00

Module Interior:

93. New Ceiling Lasco, including New Padded Ceiling Raceways and New IV Hangers	\$	2,675.00
94. New Wall Lasco, including New Head Knockers and New Corner Knockers	\$	4,650.00
95. New Cobalt Blue Interior Trim	\$	500.00
96. New Protek Cushions at the CPR Seat and Squad Bench	\$	1,825.00
97. Stainless Steel Side and Rear Entry Door Grab Rails (price covered under new Module Paint)	\$	incl
98. Stainless Steel Side and Rear Wall Grab Rail (price covered under new Wall Lasco)	\$	incl
99. UNOC #1991 - Furnish and install Life Defender cabinet fronts on ALL interior cabinets.	\$	4,600.00
100. New Front I/O with Lexan Doors	\$	2,025.00
101. New Front Wall Cabinet(s)	\$	1,550.00
102. 15 Qt. Engel Fridge	\$	1,225.00
103. New Driver Side Stainless and New Stainless Steel Countertops	\$	1,225.00
104. New Action Wall Cabinet	\$	950.00
105. New Action Wall with SSCOR Suction	\$	1,500.00
106. Location 1: 4 switch panel	\$	incl
107. Location 2: Existing Double O2 Outlet	\$	incl
108. Location 3: Thermostat	\$	incl
109. Location 4: Blank	\$	incl



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110. Location 6: Suction	\$	incl
111. Location 7: Quad 120 VAC	\$	incl
112. Location 8: Blank	\$	incl
113. Location 9: Blank	\$	incl
114. Action Wall Switch Layout : Interior Lights; Front Interior Light; Ventilation Fan; Blank;	\$	incl
115. Sharps Container at Action Wall	\$	250.00
116. Acrylic Holder at the Action Wall Cabinet	\$	375.00
117. New 6pt Harness at the CPR Seat	\$	700.00
118. Acrylic Holder Aft CPR Seat	\$	500.00
119. Genset Start/Stop Switch at Rear Doors	\$	incl
120. Rear Door Switch Layout : Acknowledge; Start/Stop Genset; Dump/Bypass (Suspension); Rear Load;	\$	incl
121. Two Seating Positions at the Squad Bench - 1 and 3	\$	incl
122. New Squad Bench Stainless	\$	950.00
123. Harness Type for Seat Position 1: New 6pt Harness	\$	700.00
124. Harness Type for Seat Position 3: New 6pt Harness	\$	700.00
125. 22 Pocket Acrylic Holder	\$	850.00
126. Double Squad Bench Cabinet	\$	850.00
127. Trashcan With Lid at the Head of the Squad Bench	\$	incl
128. Ship Loose - Fan next to squad bench O2 outlet	\$	incl
129. Install Evergreen UV-C air and surface disinfection lamp in ceiling raceway with control unit in electrical compartment	\$	6,000.00
130. IV Hanger on Ceiling Raceway	\$	incl
131. Driver Side Stainless Steel Ceiling Grab Rail for 12' Unit (price covered under new Ceiling Lasco)	\$	incl
132. Replace Existing Squad Bench IV Hanger with New	\$	incl
133. Head knocker options: No Clocks or Speakers	\$	incl
134. Stryker cot tower only (no antler and bar)	\$	incl
135. Floor Options: Stryker Floor Track Only (for Power-LOAD) - Gen 2	\$	3,350.00
136. New Loncoin II Sapphire Floor	\$	4,175.00
137. New Laydown O2	\$	550.00
138. Captain's Chair Type: Captain's Chair with Child Safety Seat and 4pt. Harness	\$	2,675.00
139. Customer Provided Items Processing Fee	\$	1,000.00



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Module Interior Subtotal	\$	46,350.00
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Email this quote along with your PO
to Kalyn Salsman at ksalsman@frazerbilt.com

Remit To:

Per TMVCC, we are quoting this through our
licensed franchise dealer, Classic Chevrolet Fleet & Commercial

Classic Chevrolet Fleet & Commercial
2501 William D Tate Ave.
Bldg D
Grapevine, TX 76051

Standard Terms and Conditions

INVOICING AND PAYMENT TERMS: Vendor shall submit one (1) original invoice per payment due. The invoice(s) shall include the items listed in accordance with the quote mentioned in the Sale Agreement with reference to the Customer's Purchase Order Number.

If the Sale Agreement provides for any progress (or advance) payments based on specific milestones or activities, Vendor's invoice shall certify to the accomplishment or performance by Vendor of said milestone or activity, and that Customer has obtained a security interest in such Products to the extent of such payment.

Payment shall be due upon receipt of the invoice and delivery of the unit to the Customer unless previously negotiated.

CANCELLATION POLICY: Cancellation of orders must be received 120 days prior to the agreed upon delivery date. If the order is cancelled within the 120 day window, a fee of 25% of the total purchase order price will apply.

DELIVERY TERMS: The products listed in the estimate are to be delivered Free On Board (FOB) Destination to Houston, TX. Customer representative(s) will pick up the unit at upfitter location, 7219 Rampart St., Houston, TX 77081 and transport it to their final destination at customer expense unless otherwise specified in the Vendor quote.



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TERMINATION FOR CAUSE: Customer may terminate this Sale Agreement and any corresponding Purchase Order, or any part thereof, for cause including, but not limited to the following Vendor actions: (1) any default or breach of any of the terms and conditions of the Sale Agreement, (2) failure to provide Customer, upon request, a reasonable assurance of future performance, or (3) bankruptcy, dissolution, or suspension of payments by judicial decree. If Vendor does not cure such failure within a period of five (5) days or such a longer period as Customer may authorize in writing after the date such notice is sent to Vendor, then termination may proceed.

Vendor may also terminate this Sale Agreement and any corresponding Purchase Order for cause, and Vendor will not be in breach of same, in the event any supplier to Vendor fails to deliver Products and/or component parts in a timely fashion and Vendor cannot make alternate accommodations in order to comply with the Parties' agreed upon completion and delivery dates.

CHANGE ORDERS: Vendor has the right to modify the Purchase Order requirements and conditions as needed and will advise Customer in writing of such requested changes. Vendor shall not proceed with any changes without Customer's written authorization. Any request by Customer to change the terms or conditions of the Purchase Order, including product specifications, options, and price, must be made in advance of the production job order release. Any changes made after the release of the production job order will incur a \$350 fee per change order made in a 24 hour period and will be included on a secondary invoice. Vendor reserves the right to refuse changes requested by the Customer.

PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING: All commercial, financial or technical information in any form that Vendor provides to Customer shall be deemed proprietary and confidential and Customer shall not disclose such information to third parties without Vendor's written consent. Termination of the Sale Agreement shall not relieve Customer of this confidentiality obligation. Upon Vendor's request, Customer shall return all confidential information to Vendor along with any reproductions, in whole or in part. The confidentiality obligation does not apply to information that is in the public domain through no fault of Customer or to information lawfully within Customer's possession prior to the date of the Purchase Order, as evidenced by Customer's written records.

INDEMNIFICATION: Customer shall fully release, indemnify, defend and hold harmless Vendor, its co-venturers, its contractors, and their respective affiliates, and Vendor's and their respective directors, officers and employees (including agency personnel) ("Vendor Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase



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Order without regard to any allegation of negligence on the part of the Vendor Group as it pertains to Vendor's Products.

Vendor shall fully release, indemnify, defend and hold harmless Customer, its co-venturers, its contractors, and their respective affiliates, and the Customer's and their respective directors, officers and employees (including agency personnel) ("Customer Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Customer Group as it pertains to Vendor's Products.

Customer Initials: _____

LIMITATIONS ON DAMAGES: In the event of any dispute, disagreement or breach alleged by Customer on the part of Vendor, Customer's exclusive and sole remedy shall be repair or replacement, if practical, of the module, or component part, by Vendor. If Vendor is not able to effectuate a repair, replacement, or cure that brings the module, or component part, into compliance with the Parties' agreement, then Vendor shall refund the sale price to Customer. In no event shall Vendor be liable to Customer, or to any third-party acting through Customer, for any additional, consequential or punitive damages, or damages for lost sales, revenue or profits claimed by Customer or any third-party acting through Customer.

FORCE MAJEURE: A force majeure delay shall mean any delay or other unforeseeable causes beyond the reasonable control of the party affected, provided that any such delay is not caused, in whole or in part, by the acts or omissions of the party so delayed and further provided that such party is unable to make up for such delay with reasonable diligence and speed. If any such cause delays Vendor's performance, the delivery date or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay; however, Vendor shall take all reasonable measures to mitigate the effects of the force majeure event and to minimize such delay. A party affected by a force majeure event shall notify the other party of such force majeure event within forty-eight (48) hours of its knowledge of such event for the event to be considered a bona fide force majeure event.

TITLE AND RISK OF LOSS: Title to the Products shall transfer to Customer upon receipt of Products by Customer or its agent unless otherwise stated in the Sale Agreement. Notwithstanding the above, risk of loss of the Products shall remain with Vendor until delivered to Customer.



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WAIVER: Vendor's failure to exercise or enforce any right in the Purchase Order, or any other right or privilege under law, or Vendor's waiver of any breach by Customer shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless Vendor gives such waiver in writing.

LIENS: Vendor waives and relinquishes all existing and future liens and claims (statutory or otherwise) for the Products specified in the Purchase Order, and warrants that the Products will be free and clear of all liens, claims or encumbrances of any kind.

INSPECTION, REVIEW AND WITNESSING: Customer and/or the ultimate owner of the Products have the right to inspect and attend testing of the Products at Vendor's premises (or its supplier's or subcontractor's premises) with reasonable advance notice. If any inspection is made on the premises of Vendor or its supplier, Vendor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

APPLICABLE LAW AND VENUE: The Sale Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without reference to any principle of conflict of laws. Customer and Vendor expressly exclude the application of the Convention on International Sale of Goods to the Sale Agreement. Venue for all judicial, administrative, or regulatory proceedings shall be Houston, Harris County, Texas.

OWNERSHIP OF DOCUMENTS: Title to all drawings, specifications, calculations, technical data and other documents that Customer submits in accordance with the Purchase Order shall vest with Vendor. Vendor shall have the right to use such documents for any purpose pertaining to the manufacture, assembly, and delivery of the Products.

Title to all drawings, specifications, calculations, technical data, and other documents that Vendor submits to the Customer shall vest with the Customer. Customer shall have the right to use such documents for any purpose pertaining to the installation, operation, and maintenance of the Products.

INSURANCE: Vendor shall comply with the project insurance requirements for which the Products are being provided. Customer shall provide specific reasonable levels required as soon as such levels are available, which shall not exceed \$1,000,000 for any non-statutory category other than excess liability umbrella, which shall not exceed \$4,000,000. When requested by Customer, Vendor shall provide certificates of insurance as proof of same.



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SURVIVAL: The provisions of the following Paragraphs of these Terms and Conditions shall survive any cancellation or termination of the Purchase Order: (Proprietary Information, Confidentiality and Advertising), (Indemnification), (Liens), and (Applicable Law and Venue).

EXHIBIT “B”

INSURANCE

Seller shall obtain and maintain insurance coverage as agreed in paragraph 7 of the City of Brownsville Contract Agreement and ensure that coverage with the parameters contained herein remains in full force at all times during the contract period as follows:

1. **Workers' Compensation and Employers' Liability Insurance**

Minimum Limits Consistent with Texas Worker’s Compensation Act (Section 401):

1. \$100,000 bodily injury each accident
2. \$500,000 bodily injury by disease policy limit
3. \$100,000 Bodily injury by disease each employee

Any firm performing work for or on behalf of the City of Brownsville must provide Workers' Compensation insurance.

2. **Commercial General Liability Insurance**

Covering premises-operations, products-completed operations, independent Sellers and contractual liability, with a combined single limit bodily injury/property damage of \$1,000,000.

This coverage must include, but not be limited to:

1. Coverage for the liability assumed by the Seller under the indemnity provision of the contract.
2. Coverage for Premises/Operations
3. Products/Completed Operations
4. Broad Form Contractual Liability
5. Independent Sellers

3. **Automobile Liability Insurance**

Covering all owned, hired and non-owned automobile equipment with the following Limits:

1. Bodily injury
\$250,000 each person,
\$500,000 each occurrence
2. Property damage
\$100,000 each occurrence

EXHIBIT “B”



PROCUREMENT SERVICES PROCUREMENT ANALYSIS

Date: Wednesday, November 1, 2023
To: Mr. John Cowen Jr., City Mayor
From: Mr. Lupe Granado III, Financial Services Director
CC: Mr. Damian Espinoza, Procurement and Contract Manager
Mr. Jarrett Sheldon, Fire Chief

Subject: Agenda Item for the City Commission meeting of Tuesday, November 7, 2023 "Consideration and Action for the purchase of two remounted ambulances from Classic Chevrolet Fleet & Commercial" 029-24-FIR-SA

Background:

At the request of Mr. Jarrett Sheldon, Fire Chief, the Procurement Division requested to invoke the *Texas Local Government Code Chapter 252 Subchapter (B) Competitive Bidding or Competitive Proposals Required* for the procurement of: two remounted ambulances.

Exemption language:

Frazer, LTD has provided a sole source affidavit to support that they are the only company able to provide the product the City needs. Per TMVCC, they are quoting this through their licensed franchise dealer, Classic Chevrolet Fleet & Commercial

Sec. 252.022. GENERAL EXEMPTIONS. (a) This chapter does not apply to an expenditure for: (7) a procurement of items that are available from only one source

PROCUREMENT SUMMARY: Classic Chevrolet Fleet & Commercial is eligible under this procurement for the purchase of two remounted ambulances in the amount of \$474,875 (**Exhibit A**)



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Jarrett Sheldon, Fire Chief
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve **Resolution Number 2023-130** to purchase a Spartan/SVI Heavy Rescue Fire Apparatus for the Brownsville Fire Department to be paid with the issuance of future Certificates of Obligation.
(Fire Department)

Summary:

The purpose of this project is to acquire a Heavy Rescue Truck to enhance the firefighting capabilities of the Brownsville Fire Department. With supply chain issues and extended lead times posing significant challenges in the procurement process, it is imperative to secure a place holder with future funding through a city commission resolution promptly. By doing so, we can ensure the timely acquisition of this essential firefighting asset, safeguarding the safety and well-being of our community. By affirming this resolution by the City Commission, a purchase order will be issued for a total of \$1,748,603 on or before the end of November 2024. Due to the ongoing issues nationwide associated with new vehicles, it has been difficult to acquire emergency vehicles in a timely manner. The current Heavy Rescue Apparatus is 20 years old and has exceeded its lifespan.

Project Scope and Analysis:

A city commission resolution in support of securing this apparatus will place the Brownsville Fire Department in line for the project build, allowing us to secure the required vehicle and equipment timelier. This acquisition will empower our fire department to address emergencies more efficiently and effectively, protecting lives and property within our community. Through this resolution, we can lock in pricing for the Heavy Rescue Apparatus shielding us from potential price fluctuations caused by uncertainties in the market. This ensures a cost-effective investment, maximizing the value of taxpayer funds and supporting the city's long-term financial stability.

Funding:

Source: N/A

Amount: N/A

Local Contribution if Applicable: N/A

Recommendation:

Recommend approval

Commission Pillar:

Public safety, quality of life

Attachments:

1. Resolution to Secure Funding Heavy Rescue
2. RESOLUTION NUMBER 2023 Heavy Rescue (JMA edits v1_10.23.2023)
3. Exhibit A Brownsville Rescue Metro Proposal



Resolution to Secure Funding for Heavy Rescue Fire Truk



Securing Funding for Firefighting Assets

The approval of a resolution passed by City Commission is essential to secure funding for a Heavy Rescue Fire Truck.

- By securing funding early, we can lock in pricing for the Heavy Rescue Fire Truck, shielding us from potential price fluctuations caused by market uncertainties and disruptions in supply chain issues
- An approval by city commission resolution in favor of funding will expedite the procurement process, allowing us to secure the required vehicle and equipment promptly.

RESOLUTION NUMBER 2023-130

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE AUTHORIZING THE BROWNSVILLE FIRE DEPARTMENT TO OBTAIN FINANCING TO PURCHASE A SPARTAN/SVI HEAVY RESCUE FIRE APPARATUS.

WHEREAS, the City Commission of the City of Brownsville finds it in the best interest of the citizens of Brownsville to purchase One (1) Spartan/SVI Heavy Rescue Fire Apparatus on a Gladiator Chassis with equipment delivered by January 2026 to the Brownsville Fire Department ('BFD') (See Exhibit A); and

WHEREAS, the Heavy Rescue Fire Apparatus will include up-to-date and essential emergency equipment to equip the BFD; and

WHEREAS, the City of Brownsville City Commission has been advised that acceptable and constitutional financing has been identified and is being coordinated by BFD to purchase the necessary apparatus and equipment on or before the end of November 2024; and

WHEREAS, Metro Fire Apparatus Specialists, Inc. will not honor the quote dated Friday, September 29, 2023 nor build the fire apparatus and equipment absent the issuance of a Purchase Order; and

WHEREAS, the City of Brownsville City Commission has determined it is in the best interest of the Brownsville to permit the BFD to move forward with arrangement to take advantage of the current pricing opportunity on the apparatus.

NOW THEREFORE, BE IT RESOLVED that the City of Brownsville, Texas City Commission hereby authorizes to approve the purchase of One (1) Spartan/SVI Heavy Rescue on a Gladiator Chassis with equipment as specified for \$1,748,603.

PASSED AND APPROVED by the City Commission of the City of Brownsville, Texas this _____ day of _____, 2023.

John Cowen, Jr.
Mayor

Attest:

Yolanda Galarza-Gomez
City Secretary



Metro Fire Apparatus Specialists, Inc.
17350 State Hwy 249, Suite 250
Houston, Texas 77064-1142
713.692.0911 Office
www.mfas.com

PROPOSAL

Friday, September 29, 2023

Brownsville Fire Department
Fire Chief Jarrett Sheldon
1150 E Adams Street
2nd Floor
Brownsville, TX 78520

The undersigned is prepared to furnish for you, upon an order being placed by you, for final acceptance by Metro Fire Apparatus Specialists, Inc at its office in Houston, Texas the apparatus and equipment herein named and for the following prices:

One (1) Spartan/SVI Heavy Rescue on a Gladiator Chassis with equipment as specified:

Truck Price \$1,494,488.00
Equipment Price: \$252,115.00
HGAC Fee \$2,000.00

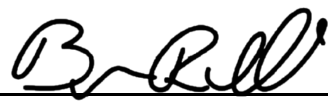
TOTAL \$1,748,603.00

No State, Federal or local taxes included.

The apparatus and equipment are to be supplied and shipped in accordance with the specifications and approvals of the Brownsville Fire Department. Production time is the number of days required to manufacture the apparatus itself. Delays due to strikes, war or other causes beyond our control not preventing, within 650 calendar days **after receipt of a signed change pre-construction change order**. The completed apparatus will be delivered to you at:

Brownsville Fire Department
Brownsville, Texas 78520

Unless accepted within 30 days from this date, Metro Fire Apparatus Specialists, Inc. reserves the right to withdraw or adjust this proposal.

By 
Brian Russell – Apparatus Manager

TERMS:

Payment due upon delivery and acceptance of completed apparatus.



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Mirla Deaton, Interim Assistant Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to pay Tyler Technologies for annual maintenance and support fees in the amount of \$59,885.98, as budgeted. (Municipal Court Department)

Summary:

Tyler Technologies is the manufacturer of the Incode system utilized by the Municipal Court and is the captive vendor for the support and maintenance of the Incode software. Incode provides Municipal Court software that is used by 95% of all Texas courts.

Project Scope and Analysis:

The support and maintenance period is for October 1, 2023 - September 30, 2024. Please note the renewal amount is \$59,885.98 and exceeds the \$49,999 amount threshold and therefore requires City Commission approval.

Funding:

Source:

Amount:

Local Contribution if Applicable:

Recommendation:

Staff recommends approval. The funding source for this expenditure is from the Municipal Court Technology Fund, account number 01-9110-848-329. This fund is specifically reserved for Municipal Court Technology-related purposes.

Commission Pillar:

Public Safety
Governance

Attachments:

1. Memo - Tyler Technologies

2. Renewal Addendum- Tyler Technologies
3. Tyler Technologies Maintenance Invoice



TO: Helen Ramirez, City Manager
FROM: Mirla V Deaton, Asst. Director MC
SUBJECT: Tyler Technologies
DATE: 10/25/2023
THROUGH:

[Handwritten signature]

AGENDA ITEM ▼

COMMISSION MEETING DATE 11/07/23

Executive Session (City Attorney Only)	Select	Agenda	Ordinance
Time Needed:	Time Needed:	☐ Public Hearing	☐ First Reading
Action Item:		☐ Contract	☐ Second Reading
		☐ Grant	
		☐ Action	
		☒ Consent	

Information: Please include additional information/request.

Consideration and Action to request authorization for payment to Tyler Technologies. Tyler Technologies is the manufacturer of the Incode system and is considered the captive vendor for the support and maintenance of the Incode software. The maintenance/support service contract renewal is for the period beginning October 1, 2023- September 30, 2024.

Commissioners Meeting is set for November 07, 2023.

Reviewing Departments: Please review and forward to the next reviewing department in a timely manner.

City Attorney	Date Reviewed:	By:
Comments:		
Finance Department	Date Reviewed:	By:
Comments:		

City Commission	Assistant City Manager	Deputy City Manager
Approved: ☐ Yes ☐ No	Approved: ☐ Yes ☐ No	Approved: ☐ Yes ☐ No
Date:	Initials: Date:	Initials: Date:
City Manager's Approval		
Signature:		Date:



Maintenance and Support Renewal Addendum

This Addendum is attached to and made part of the contracts dated January 12, 2006 ("Agreement") between the City of Brownsville, TX ("You", "Your", and similar) and Tyler Technologies, Inc. ("We", "us", and similar). This Addendum is effective as of the date your authorized representative signs below ("Effective Date"). We will provide you with maintenance and support services for the Tyler Software licensed to you under the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. All terms and conditions of the Agreement not herein amended or superseded shall remain in full force and effect.

1. **Term.** We provide maintenance and support services on an annual basis. The initial term commences on December 1, 2019 and remains in effect for three (3) years. The term will renew automatically for additional one (1) year terms unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term.
2. **Maintenance and Support Fees.** Your first annual maintenance and support fees are due December 1, 2019. Subsequent maintenance and support fees are invoiced annually in advance of each anniversary thereof. We reserve the right to suspend maintenance and support services if you fail to pay undisputed maintenance and support fees within sixty (60) days of the due date. Fees for subsequent terms are subject to change but will not increase by more than two and one-half percent (2.5%) per year for three (3) years from the Effective Date.
3. **Termination.** If you terminate the maintenance term prior to the expiration of the initial three-year term, the fees owed for annual maintenance and support plus five percent (5%) annual increases for the remainder of the term shall be due and payable within thirty (30) days of your written notice.
4. **Maintenance and Support Services.** As long as you timely pay your maintenance and support fees, we will, consistent with our then-current Support Call Process, perform our maintenance and support obligations as outlined in the Agreement. A copy of our current Support Call Process is attached hereto as Exhibit A.

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Addendum as of the date(s) set forth below.

Tyler Technologies, Inc.
Local Government Division

By: Janet Joiner
Name: Janet Joiner
Title: Vice President, Finance, LGD
Date: October 31, 2019

City of Brownsville, TX

By: [Signature]
Name: Noel Bernal
Title: City Manager
Date: 12/17/19

Approved as to Form and Legality
This 26th day of November 2019
by [Signature] City Atty
Office of the Brownsville City Attorney



Support Channels

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler's holiday schedule is outlined below. There will be no support coverage on these days.

New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

Issue Handling

Incident Tracking

Every support incident is logged into Tyler's Customer Relationship Management System and given a

unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler's website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client's needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain "characteristics" may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the client towards clearly understanding and communicating the importance of the issue and to describe generally expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology's software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.
- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client's database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.

**Remittance:**

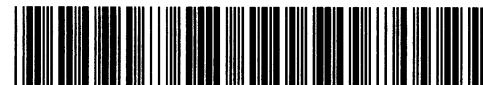
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
025-434979	09/01/2023	1 of 2

Questions:

Tyler Technologies - Local Government
Phone: 1-800-772-2260 Press 2, then 2
Email: ar@tylertech.com



Bill To: CITY OF BROWNSVILLE
P.O. BOX 911
BROWNSVILLE, TX 78522-0911

Ship To: CITY OF BROWNSVILLE
P.O. BOX 911
BROWNSVILLE, TX 78522-0911

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
42331 - MAIN - MAIN	179718		USD	NET30	10/01/2023

Date	Description	Units	Rate	Extended Price
Contract No.: Brownsville, TX City of				
	Court Case Management	1	39,675.23	39,675.23
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	Central Cash Collection	1	5,187.95	5,187.95
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	Collection Agency Export Interface	1	546.59	546.59
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	Secure Signatures	1	546.67	546.67
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	System Software Non SQL Maintenance	1	1,091.30	1,091.30
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	System Software Non SQL Maintenance	1	853.23	853.23
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	Basic Network Support Services	1	1,310.30	1,310.30
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	Court Case Management SQL Version Upgrade	1	2,626.37	2,626.37
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	System Software Non SQL Maintenance	1	963.70	963.70
	Maintenance: Start: 01/Oct/2023, End: 30/Sep/2024			
	INCODE Court Online Component - Annual Fee	1	2,400.00	2,400.00
	Maintenance Start: 01/Oct/2023, End: 30/Sep/2024			
	Incode Court Case Management Suite - Brazos Citation Issuing Device Interface	1	0.00	0.00
	Maintenance Start: 01/Oct/2023, End: 30/Sep/2024			
	Court Incode Web Services/API - Maintenance	1	1,547.26	1,547.26
	Maintenance Start: 01/Oct/2023, End: 30/Sep/2024			
	Incode Content/Document Management Suite - Maintenance	1	3,137.38	3,137.38
	Maintenance Start: 01/Oct/2023, End: 30/Sep/2024			
	Tyler Output Processor Server - Maintenance	1	0.00	0.00
	Maintenance Start: 01/Oct/2023, End: 30/Sep/2024			
	Tyler Content Manager Standard Edition - TCM SE - Maintenance	1	0.00	0.00
	Maintenance Start: 01/Oct/2023, End: 30/Sep/2024			



Remittance:
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
025-434979	09/01/2023	2 of 2

Questions:
Tyler Technologies - Local Government
Phone: 1-800-772-2260 Press 2, then 2
Email: ar@tylertech.com

Bill To: CITY OF BROWNSVILLE
P.O. BOX 911
BROWNSVILLE, TX 78522-0911

Ship To: CITY OF BROWNSVILLE
P.O. BOX 911
BROWNSVILLE, TX 78522-0911

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
42331 - MAIN - MAIN	179718		USD	NET30	10/01/2023

Date	Description	Units	Rate	Extended Price
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****ATTENTION****

Order your checks and forms from
Tyler Business Forms at 877-749-2090 or
tylerbusinessforms.com to guarantee
100% compliance with your software.

Subtotal	59,885.98
Sales Tax	\$0.00
Invoice Total	59,885.98



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Joel Garza, Mobility Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve Free Fare for citizens to honor all Veterans and to transport any and all citizens wishing to attend the Veterans Job Fair and free fare for everyone wishing to attend the H-E-B Feast of Sharing Event. (Multimodal Transportation)

Summary:

Multimodal Transportation/ B-Metro will be providing free service for the H-E-B Feast of Sharing Event on November 8, 2023 and free rides to all citizens of Brownsville to honor all Veterans on November 9th, 2023 to attend the 12th Annual Veterans Job Fair hosted by Texas Workforce Commission and Texas Medical Center.

Project Scope and Analysis:

Funding:

Source: Potential loss of revenue

Amount: 4600.00

Local Contribution if Applicable:

Recommendation:

Staff recommends approval, which approval by the City Commission includes finding a public purpose to waive these fees.

Commission Pillar:

Quality of life

Attachments:

1. Feast of sharing November 2023

2. Job Fair Veterans and family



**FEAST OF
SHARING**

You're invited to the

31st Annual Holiday Dinner

**Wednesday, November 8th
11 a.m.–3 p.m.**

Amigoland Events Center

1010 Mexico Blvd., Brownsville, TX 78520

Learn more about your Feast of Sharing dinner at heb.com/feast



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Hiring & You!

Red, White



Attention Job Seekers



Join Us at the Largest Job Fair in Cameron County



November 9, 2023

Join the Texas Workforce Commission, Workforce Solutions, and Texas Medical Center for the 12th Annual Hiring Red, White, & You! Statewide Hiring Fair to connect transitioning service members, military spouses, National Guard, Reserve, veterans and their family members with employers. No cost to job seekers.



**Register Now
Scan QR Code**

TIME: 9:00 am to 12:00 pm
LOCATION: Brownsville Event Center 1
Event Center, Brownsville, Tx. 78526



A proud partner of the AmericanJobCenter® network

Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.
Relay Texas: 800-735-2989 (TTY) and 711 (Voice). twc.texas.gov.

This project is wholly funded with Federal workforce development funds. This document contains vital information about requirements, rights, determinations, and/or responsibilities for accessing workforce system services. Language services, including the interpretation/translation of this document, are available free of charge upon request. Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud. Tài liệu này có thông tin quan trọng về các yêu cầu, quyền hạn, quyết định, và/hoặc trách nhiệm để sử dụng các dịch vụ của hệ thống nhân lực. Các dịch vụ trợ giúp ngôn ngữ, bao gồm thông dịch/chuyển ngữ tài liệu này, có sẵn miễn phí khi quý vị yêu cầu.



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Will Trevino, First Assistant City Attorney
Date: Tuesday, November 7, 2023
Agenda #: Consideration, and **ACTION**, if any, on the Second and Final Reading of **Ordinance Number 2023-1716** related to Paul Seales/Port Isabel/Laguna Vista v. Brownsville. (Office of the City Attorney)

Summary:

Plaintiffs Paul Seales, MG Real Properties, LTD, and Lucilla Barrera, and Intervenors City of Port Isabel and Town of Laguna Vista alleged that the City's annexations of 2001 and 2002 were void because of a failure to meet the Texas Open Meetings Act and annexation statutes. Laguna Vista alleged its interlocal agreement with the City concerning extraterritorial jurisdiction was invalid and unenforceable.

The City, Port Isabel, and Laguna Vista each disputed the claim of the other municipality that its annexation and extraterritorial jurisdiction was valid and first in time in the overlapping areas. The Thirteenth Court of Appeals held that Port Isabel and Laguna Vista did not have viable causes of action under the Texas Open Meetings Act yet allowed causes of action concerning the validity of the annexations and the enforceability of the interlocal agreement. Therefore, the City, Port Isabel, and Laguna Vista were ordered to mediation by order of the trial court entered on April 12, 2022.

At mediation held on Monday, February 20, 2023, the City, Port Isabel, and Laguna Vista reached the agreement embodied within the proposed Compromise, Settlement and Mutual Release Agreement. The Settlement Agreement is attached hereto as Exhibit No. 1 with the maps that have been agreed to in principle.

Under the terms of the proposed Settlement Agreement, the City, Port Isabel, and Laguna Vista have agreed to submit an agreed Final Judgment (attached to the proposed Settlement Agreement) to the trial court. The map attached as Exhibit "A" to the proposed Settlement Agreement depicts the boundaries of the extraterritorial jurisdictions of the City (shown in salmon) and Port Isabel (shown in light blue) and the territorial limits of the City (shown in red) and Port Isabel (shown in blue) within the areas shown in the map and on which the City and Port Isabel have agreed as a result of the mediation.

The map attached as Exhibit “B” to the proposed Settlement Agreement and incorporated therein for all purposes depicts the boundaries of the extraterritorial jurisdictions of the City (shown in salmon) and Laguna Vista (shown in orange) and the territorial limits of the City (shown in red) and Port Isabel (shown in sandy brown) within the areas shown in the map and on which the City and Port Isabel have agreed as a result of the mediation.

The City, Port Isabel, and Laguna Vista will request the trial court to approve and adopt their proposed settlement agreement reached in mediation embodied in the proposed Settlement Agreement which includes Exhibits “A” and “B” as the Settlement Agreement to be approved and adopted by the trial court. The Cities have agreed to exchange and/or release to the extent necessary to effectuate their agreement, in accordance with Section 42.023 of the Texas Local Government Code, any area previously claimed to be within the extraterritorial jurisdiction of the other party and in order to establish the boundaries of the extraterritorial jurisdictions of the City, Port Isabel, and Laguna Vista as depicted and described in Exhibits “A” and “B” attached to the proposed Settlement Agreement. The establishment of the boundaries for the City's extraterritorial jurisdiction in the areas formerly in dispute (a) will result in (i) an exchange of areas between Port Isabel and Laguna Vista, (ii) an acknowledgment that the City has adequate land use controls to protect any area exchanged, including any environmental resources in such area, (iii) a logical planning boundary, and (b) does not result in any significant negative fiscal impact on the budget of the City or the other parties.

Paul Seales, MG Real Properties, LTD, and Lucilla Barrera filed the original pleading in the Litigation and the status of them as parties in the Litigation is unresolved. Notwithstanding Paul Seales, MG Real Properties, LTD and Lucilla Barrera's unresolved status as parties in the Litigation, their status does not affect the terms of the proposed Settlement Agreement between Port Isabel and Laguna Vista.

Approval of the terms of the attached proposed Settlement Agreement is in the best interest of the health, safety and general welfare of the citizens of the City.

Project Scope and Analysis:

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

City Attorney's and City Manager's Office recommend approval.

Commission Pillar:

Governance

Economic Development

Planning and Redevelopment

Attachments:

1. COB Ordinance Paul Seales Port Isabel Laguna Vista vF
2. Interlocal Boundary and Settlement Agreement 10.31.23 vF
3. 2023.07.20 Agreed Motion for Agreed Judgment 10.31.2023 vF
4. 2023.07.20 Agreed Judgment 10.31.2023 vF
5. 3756 Exhibit COB-Laguna Vista-Port Isabel Agreement 9-27-23 - Focus Lagu...
6. 3756 Exhibit COB-Laguna Vista-Port Isabel Agreement 9-27-23 - Focus Port...

ORDINANCE NUMBER 2023-1716

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, APPROVING THE TERMS OF THE SETTLEMENT AGREEMENT BETWEEN THE CITY OF BROWNSVILLE, PORT ISABEL, AND LAGUNA VISTA, RESOLVING ALL ANNEXATION AND EXTRATERRITORIAL JURISDICTION AREA DISPUTES BETWEEN THESE PARTIES OUTLINED IN CAUSE NO. 2014-DCL-00815; *CITY OF PORT ISABEL AND TOWN OF LAGUNA VISTA VS. CITY OF BROWNSVILLE* IN THE 103RD JUDICIAL DISTRICT COURT OF CAMERON COUNTY, TEXAS; APPROVING THE TERMS OF THE AGREED FINAL JUDGMENT ATTACHED TO THE SETTLEMENT AGREEMENT; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT; AUTHORIZING THE INTERIM CITY ATTORNEY TO EXECUTE THE SETTLEMENT AGREEMENT AND AGREED FINAL JUDGMENT; ADOPTING THE EXHIBITS ATTACHED HERETO AS OUTLINING THE CITY OF BROWNSVILLE'S TERRITORIAL LIMITS AND EXTRATERRITORIAL JURISDICTION THEREBY AMENDING THE OFFICIAL MAP OF THE CITY OF BROWNSVILLE, TEXAS; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Brownsville, Texas (the "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Plaintiffs Paul Seales, MG Real Properties, LTD, and Lucilla Barrera, and Intervenor City of Port Isabel and Town of Laguna Vista alleges that the City's annexations of 2001 and 2002 were void because of a failure to meet the Texas Open Meetings Act and annexation statutes;

WHEREAS, Laguna Vista alleged its interlocal agreement with the City concerning extraterritorial jurisdiction was invalid and unenforceable;

WHEREAS, the City, Port Isabel, and Laguna Vista each disputed the claim of the other municipality that its annexation and extraterritorial jurisdiction was valid and first in time in the overlapping areas; and

WHEREAS, the Thirteenth Court of Appeals held that Port Isabel and Laguna Vista did not have viable causes of action under the Texas Open Meetings Act yet allowed causes of action concerning the validity of the annexations and the enforceability of the interlocal agreement; and

WHEREAS, the City, Port Isabel, and Laguna Vista were ordered to mediation by order of the trial court entered on April 12, 2022; and

WHEREAS, at mediation held on Monday, February 20, 2023, the City, Port Isabel, and Laguna Vista reached the agreement embodied within the proposed Compromise, Settlement and Mutual Release Agreement (“Settlement Agreement”); and

WHEREAS, the Settlement Agreement is attached hereto as Exhibit No. 1 and incorporated herein for all purposes; and

WHEREAS, under the terms of the proposed Settlement Agreement, the City, Port Isabel, and Laguna Vista have agreed to submit an agreed Final Judgment (attached to the proposed Settlement Agreement) to the trial court; and

WHEREAS, the map attached as Exhibit “A” to the proposed Settlement Agreement and incorporated therein for all purposes depicts the boundaries of the extraterritorial jurisdictions of the City (shown in salmon) and Port Isabel (shown in light blue) and the territorial limits of the City (shown in red) and Port Isabel (shown in blue) within the areas shown in the map and on which the City and Port Isabel have agreed as a result of the mediation; and

WHEREAS, the map attached as Exhibit “B” to the proposed Settlement Agreement and incorporated therein for all purposes depicts the boundaries of the extraterritorial jurisdictions of the City (shown in salmon) and Laguna Vista (shown in orange) and the territorial limits of the City (shown in red) and Port Isabel (shown in sandy brown) within the areas shown in the map and on which the City and Port Isabel have agreed as a result of the mediation; and

WHEREAS, the City, Port Isabel, and Laguna Vista will request the trial court to approve and adopt their proposed settlement agreement reached in mediation embodied in the proposed Settlement Agreement which includes Exhibits “A” and “B” as the Settlement Agreement to be approved and adopted by the trial court; and

WHEREAS, the City, Port Isabel, and Laguna Vista have agreed to exchange and/or release to the extent necessary to effectuate their agreement, in accordance with Section 42.023 of the Texas Local Government Code, any area previously claimed to be within the extraterritorial jurisdiction of the other party and in order to establish the boundaries of the extraterritorial jurisdictions of the City, Port Isabel, and Laguna Vista as depicted and described in Exhibits “A” and “B” attached to the proposed Settlement Agreement; and

WHEREAS, the establishment of the boundaries for the City's extraterritorial jurisdiction in the areas formerly in dispute (a) will result in (i) an exchange of areas between Port Isabel and Laguna Vista, (ii) an acknowledgment that the City has adequate land use controls to protect any area exchanged, including any environmental resources in such area, (iii) a logical planning boundary, and (b) does not result in any significant negative fiscal impact on the budget of the City or the other parties; and

WHEREAS, Paul Seales, MG Real Properties, LTD, and Lucilla Barrera filed the original

pleading in the Litigation; and

WHEREAS, the status of Paul Seales, MG Real Properties, LTD and Lucilla Barrera as a parties in the Litigation is unresolved; and

WHEREAS, notwithstanding Paul Seales, MG Real Properties, LTD and Lucilla Barrera's unresolved status as parties in the Litigation, their status does not affect the terms of the proposed Settlement Agreement between Port Isabel and Laguna Vista; and

WHEREAS, approval of the terms of the attached proposed Settlement Agreement is in the best interest of the health, safety and general welfare of the citizens of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, THAT:

Section 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2: Settlement Agreement. The terms of the proposed agreement between Brownsville, Port Isabel, and Laguna Vista resolving the litigation as incorporated in the Settlement Agreement attached as Exhibit No. 1 are hereby approved.

Section 3: Final Judgment. The terms of the proposed agreed Final Judgment attached to the proposed Settlement Agreement are also hereby approved.

Section 4: Authority for Execution. The Mayor and City Manager of the City of Brownsville are hereby authorized to execute the attached Settlement Agreement. The Interim City Attorney is hereby authorized to execute the attached Settlement Agreement and agreed Final Judgment.

Section 5: Adjustment in City Map. The City Commission hereby adopts the maps included as Exhibits "A" and "B" to the Settlement agreement as modifying the City's territorial and extraterritorial jurisdictional boundaries and hereby directs the City Secretary and Planning and Redevelopment Director to update the official records of the City, copies of which shall be deposited with the County Clerk.

Section 6: Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

Section 7: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the

ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 8: Open Meetings. That it is hereby found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given, all as required by Section 551.041 of the Texas Government Code.

Section 9: Effective Date. This Ordinance shall become effective upon its second and final reading and passage, and publication as may be required by law.

INTRODUCED and **PASSED** at the First Reading on the 27th day of February, 2023.

PASSED at the Second and Final Reading and Approved on this the 7th day of November, 2023.

City of Brownsville, Texas

John Cowen, Jr.
Mayor

ATTEST:

Yolanda Galarza Gomez
City Secretary

**APPROVED AS TO FORM
AND LEGALITY:**

Guillermo (Will) S. Trevino
City Attorney

Exhibit 1

Exhibit “A”

Exhibit “B”

INTERLOCAL BOUNDARY AND SETTLEMENT AGREEMENT

This Interlocal Boundary and Settlement Agreement (hereinafter “**Boundary Agreement**”) is entered into by and between the City of Brownsville, a home-rule municipality located in Cameron County, Texas (“**Brownsville**”), the Town of Laguna Vista, Texas (“**Laguna Vista**”), a home rule municipality located in Cameron County, Texas, and the City of Port Isabel (“**Port Isabel**”), a home rule municipality located in Cameron County, Texas (each individually referred to as a “**City**” and collectively referred to as the “**Cities**”) for the release, acceptance, and allocation of city limits and ETJ, and for settlement of a lawsuit between the Cities; and is dated as of November 7, 2023 (“**Effective Date**”).

SECTION I RECITALS

WHEREAS, Brownsville, Laguna Vista, and Port Isabel recognize that both the public interest and good government are best served by long-term, mutually cooperative relationships between neighboring cities; and

WHEREAS, Brownsville, Laguna Vista, and Port Isabel are adjacent municipalities that currently or will in the future share common boundaries; and

WHEREAS, on February 7, 2014, suit was initiated in Cause Number 2014-DCL-00815-D styled: *Paul Seales, MG Real Properties, Ltd., and Lucille Barrera and City of Port Isabel and the Town of Laguna Vista v. City of Brownsville*, in the 103rd District Court of Cameron County, Texas involving the Cities’ respective boundaries and extraterritorial jurisdictions, which the Cities seek to resolve by this Boundary Agreement; and

WHEREAS, the Cities are empowered by state law and the Constitution to establish their respective corporate boundaries; and

WHEREAS, agreement regarding areas adjacent to each City’s respective corporate limits and/ or extraterritorial jurisdiction (“**ETJ**”) will assist and enhance the planning and development of capital improvement programs and services, and result in meaningful protection for the environment and valuable natural resources; and

WHEREAS, pursuant to Section 42.021 of the Texas Local Government Code, the ETJ of each City is the unincorporated area that is contiguous to the corporate boundaries of each City that is located within a contiguous geographic area of those boundaries according to each City’s number of inhabitants, and also, pursuant to

Section 42.022 of the Texas Local Government Code, the ETJ is the area extended by request of land owners; and

WHEREAS, the Cities have each agreed to release certain portions of their respective extraterritorial jurisdiction and to disannex certain property in conflict with the **Common Boundary** (hereinafter defined) shown on the maps attached hereto and incorporated herein for all purposes as **Exhibit A** (the “**Boundary Maps**”), in exchange for the irrevocable commitment of each City to refrain from annexing any property or extending the ETJ or other governmental power within the boundaries shown in the Boundary Maps and to refrain from litigation involving the various boundaries and ETJ of the Cities as shown in the Boundary Maps; and

WHEREAS, the Cities seek to avoid conflicts and uncertainty relative to the extent and location of their respective corporate limits and ETJ; and

WHEREAS, each of the Cities has reviewed their respective corporate boundaries and ETJ based upon their respective inhabitants and Chapter 42 of the Texas Local Government Code, and the location of the Common Boundary, and collectively acknowledge and agree that such areas depicted in the Boundary Maps would be best served by the municipal services of each City as set forth in this Boundary Agreement; and

WHEREAS, the Cities have investigated and determined that it is necessary and in the best interest of the public health, safety, and welfare of their inhabitants to confirm boundaries and make certain agreements and adjustments regarding their respective corporate boundaries and ETJ and the provision of services; and

WHEREAS, this Boundary Agreement is made under the authority granted by and pursuant to the Texas Interlocal Cooperation Act, chapter 791 of the Texas Government Code, as amended, providing for the cooperation between local governmental bodies, for beneficial governmental purposes, and this Boundary Agreement furthers important governmental purposes such as the encouragement of expanding their respective City boundaries uniformly, economically, efficiently, and fairly, with optimal provisions made for the establishment of land use controls, planning, platting, subdivision regulations, annexation, and necessary municipal improvements, all of which promote the health, safety, and general welfare of the Cities, and the safely, orderly, and healthful development of the Cities; and

WHEREAS, the Cities have each submitted to their respective governing bodies an ordinance (“**Joint Adopting Ordinance**”), attached as **Exhibit B**, approving this Boundary Agreement which confirms and adjusts their respective corporate boundaries and ETJ, as set forth herein and in the Boundary Maps.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements contained herein, the Cities agree and covenant as follows:

SECTION 2 INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein by reference and fully made a part of this Boundary Agreement for all purposes.

SECTION 3 OBLIGATIONS AND AGREEMENTS OF THE CITIES

- 2.01 Disannexations. To the extent that the corporate limits and/or ETJ limits of Brownsville, Laguna Vista and/or Port Isabel extend beyond the Common Boundary as shown on the Boundary Maps, each such City, by this Boundary Agreement and the corresponding Joint Adopting Ordinance, hereby disannexes from both its corporate limits and ETJ limits, the property extending beyond said Common Boundary.
- 2.02 Boundaries. The Cities covenant and agree that, as between the Cities, from and after the approval and execution of this Boundary Agreement by the Cities, the respective outer boundaries of the corporate and ETJ limits of each City (the “**Common Boundary**”), shall be those shown on the Boundary Maps. The Cities covenant and agree that no City shall assert any police powers or other governmental powers, nor annex property or expand ETJ in any area depicted on Exhibit A as being within another City’s corporate limits, boundaries or ETJ, without such City’s written consent approved by its City Council. A City may otherwise expand its corporate limits and/ or ETJ in accordance with state law, as amended, within its boundary as shown on the Boundary Maps; however, in no event may a City’s ETJ, boundary and/or corporate limits include an area shown on the Boundary Maps to be within the corporate limits, boundaries or ETJ of another City, without such City’s prior written consent approved by such City’s City Council. Each City irrevocably covenants and agrees that it will not extend the boundary of its corporate limits and/ or ETJ beyond the Common Boundary set forth on the Boundary Maps.
- 2.03 Boundaries Along Roadways. For convenience and clarity, the Cities agree that the Common Boundary in the Boundary Maps shall, to the greatest extent possible, be located along existing roadways depicted in the Boundary Maps and that, in connection therewith, the entire roadway, including all right-of-way and drainage adjacent thereto, whether such roadway has been established by dedication, prescription, or otherwise, shall be located on the

Brownsville side of the Common Boundary. To the extent that any such roadway is hereafter widened beyond the Common Boundary, the Cities agree that, pursuant to Section 43.015 of the Texas Local Government Code, the Common Boundary shall be adjusted accordingly. The Cities agree to take all such action in the future as may be reasonably necessary to carry out the provisions of this Section so that, to the greatest extent possible, the widened roadway shall be located within Brownsville.

- 2.04 Adoption of Official Map. Within 30 days of the Effective Date, and no later than, January 31, 2024, each of the respective governing bodies of each City shall take appropriate action to effectuate the terms of this Boundary Agreement approved hereby through the adoption of an official map (“**Official Map**”) showing their respective boundaries and ETJ as required by Section 41.001 of the Texas Local Government Code. Within 30 days after adopting the Official Map, and no later than January 31, 2024, the Official Map of each City shall be filed by each respective City with the Cameron County Clerk. Within 30 days after adopting the Official Map, and no later than January 31, 2024, a copy of each City’s executed Joint Adopting Ordinance shall be filed by each respective City in the deed records of Cameron County. No City shall pass an ordinance or resolution or adopt any map in conflict with this Boundary Agreement or the Boundary Maps, or repeal any ordinance that is contrary to this Boundary Agreement or the Boundary Maps.
- 2.05 Prior Annexations. The Cities agree and covenant that all prior annexations or actions by each respective City, involving the corporate limits or ETJ, in conflict with the boundaries reflected in this Boundary Agreement are hereby rescinded, voided, and repealed, but only to the extent of that conflict, and each City agrees to evidence reduction of an annexation and/ or ETJ by giving its written consent by ordinance or resolution pursuant to Texas Local Government Code section 42.023, as amended.
- 2.06 Future Annexation, ETJ Expansion, and Control. The Cities agree and covenant that each can expand their respective police powers, city limits and/ or ETJ to include the area allocated to it as shown on the Boundary Maps. Each City shall have the exclusive jurisdiction to regulate plats, approve construction plans and drainage plans, and impose regulatory fees within the area allocated to each respective City in the Boundary Maps, in accordance with Chapter 212 of the Texas Local Government Code.
- 2.07 Termination Of Lawsuit And Prior Claims Released. Each City fully waives and releases, to date, any and all claims of every conceivable nature, without limitation, against the other Cities, their respective City Council members, officers, employees, representatives, and agents related to this Boundary Agreement, the ordinance adopting and authorizing this Boundary

Agreement, and any and all related boundary, ETJ, and annexation issues, claims, demands, controversies or causes of action, damages, and attorneys fees. Each City warrants and represents that it is the owner of the claims being released herein, and warrants and represents that it has not sold, assigned, pledged, transferred, waived, released, abandoned or otherwise encumbered or disposed of any interest, right, claim and/ or entitlement in or to the claims being released. The Cities shall file an Agreed Motion For Agreed Judgment and seek the District Court to enter an Agreed Judgment which makes enforceable the terms of this Boundary Agreement and also dismisses all prior and pending claims, counter-claims and cross-claims against each other with prejudice as contained in Cause No. 2014-DCL-00815-D, *Paul Seales, MG Real Properties, Ltd., and Lucille Barrera and City of Port Isabel and the Town of Laguna Vista v. City of Brownsville*, in the 103rd District Court of Cameron County, Texas. The **Agreed Motion For Agreed Judgment** and **Agreed Judgment** are attached as **Exhibit C**.

SECTION 4 CONSIDERATION

3.01 Each City agrees and stipulates to the following:

- (a) The execution by each City of the Joint Adopting Ordinance adopting, accepting and approving the execution of this Boundary Agreement and Boundary Maps;
- (b) The adoption by each City by ordinance of an Official Map consistent with the terms and provisions of this Boundary Agreement and Boundary Maps;
- (c) The filing by each City of the Official Map so adopted with the Cameron County Clerk;
- (d) The recordation by each City, in the deed records of Cameron County, of each City's Joint Adopting Ordinance approving and authorizing the execution of this Boundary Agreement; and
- (e) To the extent that any City is required to reduce its ETJ, such City hereby evidences its consent to such reduction of its ETJ by the Joint Approving Ordinance adopting this Boundary Agreement, pursuant to Texas Local Government Code Section 42.023.

Each City hereby covenants and agrees to promptly commence and to pursue to completion the conditions set forth in this Section 3.01. After the Cities

execute of the Joint Adopting Ordinance, if any City fails to satisfy the conditions set forth in subsections (b) through (e) of this Section 3.01 on or before the date that is 90 days after the Effective Date of this Boundary Agreement, then the other City or Cities may seek only declaratory relief, injunctive relief, specific performance and/or breach of contract claims under Section 4.01 to enforce the terms of subsections (b) through (e). The terms of this Boundary Agreement are contractual and also enforceable by the District Court as an Agreed Judgment.

- 3.02 Consideration. The Cities agree and stipulate that the mutual covenants and agreements contained herein, and the actions taken by each of the Cities in fulfilling its agreements hereunder are good and valuable consideration for this Boundary Agreement. The Cities further agree that the boundary and ETJ adjustments made hereunder constitute additional good and valid consideration and serve the valid government purpose of establishing and confirming corporate boundaries and ETJ.
- 3.03 Negative Covenant. By entering into this Boundary Agreement, the Cities agree to not, by legal proceedings or other legal process, either directly or by supporting a third party: (1) challenge or contest this Boundary Agreement or any of its provisions or attempt in any manner to oppose or set aside the provisions hereof or impair or invalidate any of its provisions; or (2) attempt to retain, reacquire, claim, annex or assert any form of extraterritorial or governmental control over the other Cities' corporate limits, boundaries, or ETJ as identified in the Boundary Maps.

SECTION 5 GENERAL PROVISIONS

- 4.01 Default. In the event of an alleged breach of this Boundary Agreement by any party hereto, the Cities agree that they may each respectively pursue only contract, declaratory relief, injunctive relief and/ or specific performance. Notice of an alleged default shall be given forty-five (45) days before any lawsuit may be filed, with a forty-five (45) day opportunity to cure that occurs at the same time as notice of default period. The notice and cure periods run concurrently with the mediation period set forth in subparagraph 4.08. The Cities each respectively agree that each City may sue and/ or be sued, hereby consent to suit, and waive immunity both from suit and from liability only for contract, declaratory relief, injunctive relief and specific performance claims. The Cities each respectively agree that this Boundary Agreement is a valid, enforceable contract under Texas Local Government Code chapter 271, subchapter I for the provision of goods and services by each City to the other Cities, and that no City is immune from suit or liability for any breach(es) of this Boundary Agreement. The Cities each respectively acknowledge that this

constitutes a clear and unambiguous waiver of immunity from suit and liability for the purpose of adjudicating a claim for breach of contract under Local Government Code chapter 271, including § 271.152, as amended. The Cities each respectively agree that actual damages and the balance due and owing by the breaching City may be difficult to ascertain but includes the agreed liquidated sum of at least \$1000 per day, and also includes loss of ad valorem and/ or sales tax in an area. The Cities agree that harm caused by a breach is incapable or difficult to estimate, and the amount of liquidated damages called for is a reasonable forecast of just compensation. The Cities agree and stipulate that no part of this liquidated damages calculation shall be considered a penalty and hereby expressly waive and release any right to challenge these liquidated damages provision as an illegal penalty in the future. The Cities each respectively covenant and agree that they will not assert immunity of any kind in any lawsuit brought for declaratory relief, injunctive relief, specific performance and / or breach of contract by any City, as such has been clearly and unambiguously waived by Texas Local Government Code chapter 271, subchapter I. The Cities each respectively waive and release all other claims and remedies involving borders, corporate limits, and ETJ, including proceedings under Texas Rules of Civil Procedure 202.

- 4.02 Additional Documents. The Cities agree to cooperate fully and in good faith to execute any and all supplementary documents and to take all actions which are necessary to give full force and effect to the basic terms of this Boundary Agreement.
- 4.03 Relationship of Parties. The parties understand and agree that each of the Cities performing obligations required by this Boundary Agreement is acting as an independent entity and that the execution of this Boundary Agreement shall not be construed as creating a joint venture or agency relationship by or among the Cities.
- 4.04 Third Party Beneficiaries. Nothing in this Boundary Agreement shall be construed to create any right in any third party not a signatory to this Boundary Agreement and the parties do not intend to create any third party beneficiaries by entering into this Boundary Agreement.
- 4.05 Notices. All written notices under this Boundary Agreement must be hand delivered or sent by certified mail return receipt requested addressed to the applicable City at the following addresses:

City of Brownsville:

Attention: Mayor and City Manager

Address: P.O. Box 911
Brownsville, Texas 78520

With a copy to:

City Secretary
P.O. Box 911
Brownsville, Texas 78520

Will Trevino
Office of the City Attorney
P.O. Box 911
Brownsville, Texas 78520

Town of Laguna Vista:

Attention: Mayor and City Manager
Address: 122 Fernandez Street
Laguna Vista, Texas 78578

With a copy to:

Town Secretary
122 Fernandez Street
Laguna Vista, Texas 78578

James H. Hunter Jr.
Royston Rayzor
55 Cove Circle
Brownsville, Texas 78521

City of Port Isabell:

Attention: Mayor and City Manager
Address: 305 E. Mexan Street
Port Isabell, Texas 78578

With a copy to:

City Secretary
305 E. Mexan Street
Port Isabell, Texas 78578

Gilbert Hinojosa
Law of Gilbert Hinojosa & Associates, P.C.
622 East Saint Charles Street
Brownville, Texas 78520

Each City may change the address to which notices are sent by giving the other Cities written notice of the new address in the manner provided by this paragraph.

- 4.06 Capacity. Each of the signatories below hereby represents that this Boundary Agreement has been approved by majority vote of his or her City Council; that he/she has full capacity and authority by approval of the City Council to bind the City to this Boundary Agreement; and that he/ she has full authority to sign this Boundary Agreement; and that his/ her City Council has bound the City to perform all obligations and duties in this Boundary Agreement.
- 4.07 Waiver of Breach. Forbearance or waiver of one or more instances of breach of this Boundary Agreement by any party shall not constitute a continuing forbearance or a waiver of any subsequent breach of this Boundary Agreement and shall not limit a party's ability to subsequently seek relief under the terms set forth herein.
- 4.08 Applicable Law/Venue/Mediation. This Boundary Agreement shall be construed under, and in accordance with the laws of the State of Texas, and exclusive venue shall lie in Cameron County, Texas. If one or more disputes arise with regard to the interpretation, performance and/or breach of this Boundary Agreement or any of its provisions, the Cities agree to attempt in good faith to resolve same by scheduling and attending one-half (1/2) day of mediation. The mediation shall be conducted within thirty (30) days of the dispute with a mediator agreed to by the Cities, and the cost of the mediation shall be shared equally by the Cities. If the Cities are unable to agree to a mediator, the Cameron County Judge shall decide upon a mediator. If a City refuses to mediate, that City shall not recover or seek to recover attorney's fees or costs in any lawsuit brought to construe or enforce this Boundary Agreement.
- 4.09 Legal Construction/Severability. In case any section, article, paragraph, provision, sentence, clause, phrase or word contained in this Boundary Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such section, article, paragraph, provision, sentence, clause, phrase or word shall be severed and its invalidity, illegality, or unenforceability shall not affect any other provision of

this Boundary Agreement, and this Boundary Agreement shall be construed as if the invalid, illegal, or unenforceable provision had not been included in this Boundary Agreement. Such holding shall not affect the validity of the remaining portions of this Boundary Agreement, and the respective governing body of each of the Cities hereby declares it would have passed and approved such remaining portions of this Boundary Agreement despite such invalidity, which remaining portions shall remain in full force and effect. The parties expressly agree that if, as of the Effective Date of this Boundary Agreement, any portion of the corporate limits or ETJ of any City shown on the Boundary Maps is within the corporate limits or ETJ of any other city that is not a party to this Boundary Agreement, the remainder of the Boundary Agreement shall remain in full force and effect as if such property had not been included.

- 4.10 No Actions Inconsistent with this Agreement. No City shall take any action or enter into any agreement with any city, person or entity that is in any way inconsistent with this Boundary Agreement and Boundary Maps.
- 4.11 Entire Agreement. This Boundary Agreement constitutes the sole and entire agreement of the Cities and supersedes any prior understandings or written or oral agreements between the Cities relating to the subject matter of this Boundary Agreement.
- 4.12 Construction. This Boundary Agreement has been negotiated by the Cities and shall be deemed drafted equally by all Cities hereto. The language of all parts of this Boundary Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. The Cities agree and stipulate this Boundary Agreement and its provisions are not ambiguous.
- 4.13 Amendment. No amendment, modification, or alteration of the terms of this Boundary Agreement shall be binding unless it is in writing, dated subsequent to the Effective Date of this Boundary Agreement, and duly approved by the City Council of all the Cities to this Boundary Agreement.
- 4.14 Counterparts. This Boundary Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 4.15 Successors and Assigns. This Agreement shall forever bind each City and be a covenant that runs with the land for each respective City. No City can assign its interest in this Agreement or any part of its boundary or ETJ without the prior written consent of the Cities by their respective City Councils.

4.16 Effective Date. This Boundary Agreement shall take effect on November 7, 2023.

IN WITNESS WHEREOF, BROWNSVILLE, LAGUNA VISTA, AND PORT ISABELL
have executed this Boundary Agreement to bind their respective municipality:

[Signature page to follow]

Mayor
City of Brownsville, Texas

DATE: _____

ATTEST:

City Secretary
City of Brownsville, Texas

[City Seal]

APPROVED AS TO FORM AND LEGALITY:

Counsel for City of Brownsville

Mayor
Town of Laguna Vista, Texas

DATE: _____

ATTEST:

Town Secretary
Town of Laguna Vista, Texas

[Town Seal]

APPROVED AS TO FORM AND LEGALITY:

Counsel for Town of Laguna Vista

Mayor
City of Port Isabel, Texas

DATE: _____

ATTEST:

City Secretary
City of Port Isabel, Texas

[City Seal]

APPROVED AS TO FORM AND LEGALITY:

Counsel for City of Port Isabel, Texas

Exhibit A
Boundary Maps

Exhibit B
Joint Adopting Ordinance

Exhibit C

Agreed Motion For Agreed Judgment

PAUL SEALES, MG REAL PROPERTIES, §	IN THE DISTRICT COURT
LTD. AND LUCILLE BARRERA §	
<i>Plaintiffs</i> §	
§	
AND §	
§	
CITY OF PORT ISABEL AND §	103 RD JUDICIAL DISTRICT
THE TOWN OF LAGUNA VISTA §	
§	
<i>Intervenors</i> §	
§	
V. §	
§	
THE CITY OF BROWNSVILLE, §	CAMERON COUNTY, TEXAS
§	
<i>Defendant</i> §	

AGREED MOTION FOR AGREED JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, Intervenors, City of Port Isabel and the Town of Laguna Vista, and Defendant, the City of Brownsville, have entered into a compromise and settlement agreement in the above captioned cause and have agreed to the entry of an agreed judgment in the form attached hereto. Accordingly, the parties request that the Court execute the original Agreed Judgment being submitted contemporaneously with this motion.

WHEREFORE, PREMISES CONSIDERED, the parties to this lawsuit pray that the Agreed Judgment being submitted contemporaneously with this motion be signed and that the Court enter such other and further orders as may be proper.

Respectfully submitted,

Larry Mark Polsky
State Bar No. 16105500
mossad1947@sbcglobal.net

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(985)761-1599
ATTORNEY FOR PLAINTIFF

/s/ Wm. Andrew Messer
WM. ANDREW MESSER
STATE BAR NO. 13472230
andy@txmunicipallaw.com
MESSER FORT, PLLC
6371 PRESTON ROAD, SUITE 200
FRISCO, TEXAS 75034
TELEPHONE – 972-668-6400
FACSIMILE – 972-668-6414

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512.930.1317 – Telephone

/s/ Guillermo (Will) S. Trevino
GUILLERMO (WILL) S. TREVINO
STATE BAR NO. 24044743
will.trevino@brownsvilletx.gov
CITY OF BROWNSVILLE, TEXAS
1001 E. ELIZABETH STREET
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TELEPHONE – 956-548-6070
**ATTORNEYS FOR DEFENDANT,
CITY OF BROWNSVILLE**

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**ATTORNEY FOR INTERVENOR
TOWN OF LAGUNA VISTA**

Gilberto Hinojosa

State Bar No. 09701100

ghinojosa@ghinojosalaw.net

Law Office of Gilbert Hiojosa &
Associates, P.C.

622 East Saint Charles Street

Brownsville, Texas 78520

(956)544-4218 (Phone)

ATTORNEY FOR INTERVENOR

CITY OF PORT ISABEL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record via electronic service on this 8th day of November 2023.

/s/ Wm. Andrew Messer

WM. ANDREW MESSER

PAUL SEALES, MG REAL PROPERTIES, §	IN THE DISTRICT COURT
LTD. AND LUCILLE BARRERA §	
<i>Plaintiffs</i> §	
§	
AND §	
§	
CITY OF PORT ISABEL AND §	103 RD JUDICIAL DISTRICT
THE TOWN OF LAGUNA VISTA §	
§	
<i>Intervenors</i> §	
§	
V. §	
§	
THE CITY OF BROWNSVILLE, §	CAMERON COUNTY, TEXAS
§	
<i>Defendant</i> §	

AGREED JUDGMENT

Came on for consideration an Agreed Motion for Agreed Judgment in the above captioned case. Upon consideration of said motion, the Court finds that Plaintiffs, Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, Intervenors, City of Port Isabel and the Town of Laguna Vista, and Defendant, the City of Brownsville have entered into a compromise and settlement agreement, a copy of which is attached hereto and made a part hereof. Accordingly, the Court is of the opinion that the Agreed Motion for entry of an Agreed Judgment should be in all things granted and sustained, and that Judgment should now be entered in this case. It is therefore,

ORDERED, ADJUDGED and DECREED that Plaintiffs, Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, and Intervenors, City of Port Isabel and the Town of Laguna Vista TAKE NOTHING in this case from Defendant, City of Brownsville and that all of Plaintiff's and Intervenors claims and causes of action asserted in this cause or that could have been asserted in this cause are hereby dismissed with prejudice. It is further, ORDERED, ADJUDGED and DECREED that Defendant, City of Brownsville, TAKE NOTHING in this case from Plaintiffs,

Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, and Intervenor, City of Port Isabel and the Town of Laguna, and Defendant's counterclaims and causes of action asserted in this cause or that could have been asserted in this cause are hereby dismissed with prejudice.

Each party shall bear its own attorneys' fees and court costs.

This is a final order that disposes of all claims and all parties, and this case is dismissed with prejudice in its entirety.

SIGNED this _____ day of _____, 2023.

JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE:

LARRY MARK POLSKY
State Bar No. 16105500
mossad1947@sbcglobal.net
Attorney for Plaintiffs

/s/ Wm. Andrew Messer
WM. ANDREW MESSER
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City of Brownsville

/s/ Guillermo (Will) S. Trevino
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Attorney for Defendant
City of Brownsville

JAMES H. HUNTER, JR.

AGREED JUDGMENT

STATE BAR NO. 00784311
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Attorney for Intervenor
Town of Laguna Vista

GILBERTO HINOJOSA
STATE BAR NO. 09701100
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Attorney for Intervenor
City of Port Isabel



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Perla Cepeda, Organizational Dev. & Human Resources Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve a renewal of the Professional Services Agreement for Healthcare Consulting Services with Higginbotham and authorize a not-to-exceed contingent fee amount of \$150,000, as budgeted. (Organizational Development and Human Resources Department)

Summary:

The goal for the 2024-2025 plan year is to do a full RFP to include Medical, Pharmacy and Non-Medical (life, disability, vision and such). This will include THB but it will also include other Carriers, independent Third Party Administrators, Pharmacy Benefit Managers and Point Solution Partners. In addition, plan enhancements will be further covered on the scope of work section below.

Project Scope and Analysis:

1. Request for a Quicker response time- We will redouble our efforts to support the City in issues that may arise with the City's plan with Texas Health Benefits (THB). It is important to remember that the City or Higginbotham can only move at the speed of THB. We are reliant on them for timeliness of information and resolution. Moving forward, we propose a regular monthly meeting with the three entities to stay abreast of any challenges. These would most likely be 30 minutes or less in length and scheduled for the year. Urgent issues will be addressed as / if they occur.

2. Integrate Administrative Support in Wellness, Compliance, Communication and HR Technology- The Respective Higginbotham Teams look forward to working with the appropriate City team members in each of these areas. I have attached information that reflects our abilities and work product in each area. Engagement will be reflected in the attached timeline.

Financial reporting is being adapted to a more robust format to include monthly reports and quarterly reviews. Additionally, we are implementing the independent PBM review process to

assure that THB and Navitus are complying to their respective contracts. The next annual review will be January of 2024 and will encompass the 2023 plan year and all runout claims.

Higginbotham would relish the opportunity to provide guidance on the nonmedical lines of coverage as we know there is great opportunity for improvement in these areas. Up to this time, it had been our understanding that the City wished to maintain its current relationships. We look forward to this discussion and the improvements that can be made.

3. Support collaboration with / for BTX Health Center – This will also fall under the guidance of our Wellness Team. They have the knowledge and experience to support this goal. They will simply need to understand the function and goals of the request.

4. Overall game plan for the Healthplan – Your Higginbotham Team trusts that the overall game plan has not changed. The goal is to get to a point where the cost of the Plan becomes predictable and sustainable for both the City and its employees.

Funding:

Source: General Fund - 70-9110-876-311 (Contingency Healthcare Consultant)

Amount: 150,000.00

Local Contribution if Applicable:

Recommendation:

Staff recommends approval of the PSA

Commission Pillar:

Governance

Attachments:

1. Higginbotham Contract Extension_ Scope of Work 2024
2. Higginbotham Agreement

October 20, 2023

TO:

Ivan Reyes
City of Brownsville

From:

Tommy Taylor, CLU
Executive Vice President, Managing Consultant
Team Members Michael Avenevoli, Albert Perez
Higginbotham Insurance

Regarding: Additional clarifications requested in email dated and sent by Ivan Reyes on October 19, 2023 to Tommy Taylor

Ivan,

Thank you and the City Management team for this opportunity to expand the services provided by Higginbotham. In addition to the consultative and evaluation services, Higginbotham has the ability to support the various areas outlined in your email.

For the sake of clarity I want to address them in the order they were outlined in your email (I will attach a copy of the email so that there is a complete record in one correspondence).

1. Request for a Quicker response time- We will redouble our efforts to support the City in issues that may arise with the City's plan with Texas Health Benefits (THB). It is important to remember that The City or Higginbotham can only move at the speed of THB. We are reliant on them for timeliness of information and resolution. Moving forward we propose a regular Monthly meeting with the three entities to stay abreast of any challenges. These would most likely be 30 minutes or less in length and scheduled for the year. Urgent issues would be addressed as / if they occur.
2. Integrate Administrative Support in Wellness, Compliance, Communication and HR Technology- The Respective Higginbotham Teams look forward to working with the appropriate City team members in each of these areas. I have attached information that reflects our abilities and work product in each area. Engagement will be reflected in the attached timeline.

Financial reporting is being adapted to a more robust format to include monthly reports and quarterly reviews. Additionally, we are implementing the independent PBM review process to assure that THB and Navitus are complying to their respective contracts. The next annual review will be January of 2024 and will encompass the 2023 plan year and all runout claims.

Higginbotham would relish the opportunity to provide guidance on the nonmedical lines of coverage as we know there is great opportunity for improvement in these areas. Up to this time, it has been our understanding that the City wished to maintain its current relationships. We look forward to this discussion and the improvement that can be made.

3. Support collaboration with / for BTX Health Center – This too will fall under the guidance of our Wellness Team. They have the knowledge and experience to support this goal. They will simply need to understand the function and goals of the request.
4. Overall game plan for the Healthplan – Your Higginbotham Team trusts that the overall game plan has not changed. The goal is to get to a point where the cost of the Plan becomes predictable and sustainable for both the City and its employees.

The challenge has been working with THB. While THB claims to function as a TPA, the truth is they have ceded those functions to BCBSTX. This has the impact of making the City conform to the rules of BCBSTX and not have the ability to build a plan that allows for cost saving solution partners. Even with these restrictions, there has been great success through implementing the Navitus program in 2023 and the addition of Surgery Plus for 2024 both at the council of your Higginbotham Consulting Team. Additionally we did a dry run RFP in 2023 to identify concerns and opportunities as we moved towards the 2024-2025 plan year

The goal for the 2024-2025 plan year is to do a full RFP to include Medical, Pharmacy and Non-Medical (life, disability, vision and such). This will include THB but it will also include other Carriers, independent Third Party Administrators, Pharmacy Benefit Managers and Point Solution Partners. This process should begin the middle of November and is outlined on the timeline provided.

Ivan, in order for the requested actions to be successfully fulfilled, the Higginbotham Team is requesting that the City provide two primary points of contact for each of the projects put forth. That is not to say there cannot be more people involved at the City, but it will provide the various members of the Higginbotham Teams the ability to have specific contacts for questions and to set meetings.

Please let me know if you need or would like additional information or clarification

Respectfully,



Tommy Taylor, CLU
Managing Consultant



EMPLOYEE BENEFITS CONSULTING AGREEMENT

With
The City of Brownsville
As Benefit Plan Sponsor

And
Higginbotham Insurance
Agency, Inc.



This Consulting Agreement, hereinafter referred to as "Agreement" is between The City of Brownsville ("Client") and Higginbotham Insurance Agency, Inc. ("Consultant"), effective this 1st day of April, 2021.

WHEREAS, Client desires to obtain the benefit of Consultant's knowledge and experience by retaining Consultant, and Consultant desires to accept such position upon the terms and subject to the conditions set forth herein.

WHEREAS, the Parties wish to set forth their respective expectations;

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties hereby agree as follows:

1. Scope of Services to be Provided by Consultant

Consultant will provide Client with consulting services, the scope of which shall be determined by Client in accordance with the Scope of Services Addendum (Exhibit 2), for the following benefit programs listed below:

- Medical
- Prescription Drug
- Dental
- Vision
- Disability
- Life
- Voluntary Life Insurance

In addition, Consultant will provide the following Value-Added services as elected by Client, included in its fees (unless otherwise noted) listed in Exhibit 1:

- Wellness Consulting
- Compliance Consulting
- HR Technology Consulting
- Benefits Communication Consulting
- Summary Annual Reports
- COBRA Administration – COBRA consulting is covered. Actual cost of COBRA Administration is not included in Consulting Fee.

2. Term & Termination

- A. **Term.** This initial term of this Agreement shall be 18 Months, commencing on April 1, 2021 and ending September 30, 2022 ("Initial Term") plus two 12 month renewable terms.
- B. **Termination.** This Agreement may be terminated by either party only as follows:
 - a) Effective upon fifteen (15) days advance written notice to the other party stating that such other party is in breach of any of the provisions of this Agreement, provided such breach (if able to be cured) is not cured within seven (7) days after the notice is received;
 - b) Effective upon ninety (90) days' advance written notice to the other party given with or without reason; provided such notice is given after the Initial Term; During Initial Term, no less than 50% of total Fees are earned. Example under Exhibit 1.
 - c) By mutual written agreement of the Parties.

3. Cost of Services

Client agrees to pay Consultant professional fees as outlined in Exhibit 1 and Scope of Services Addendum. These annual fees are payable in monthly installments and Consultant agrees to submit invoices to Client on a monthly basis. The fees include Consultant's out-of-pocket expenses, including, but not limited to, expenses related to travel, communication, advertising and any other work performed on behalf of Client, unless otherwise specified.

The amount of the Fee shall be guaranteed for a period of 18 Months.

Client acknowledges Higginbotham may receive additional compensation including contingency payments, overrides, and bonuses as a result of being Client's insurance advisor (collectively, "Additional Compensation"). Client consents and agrees to Higginbotham's ability to receive such Additional Compensation under all circumstances. Consultant is not directly paid any additional compensation that may be received.

4. Personnel

Consultant will assign its personnel according to the needs of Client and according to the disciplines required to complete appointed tasks in a professional manner. Consultant retains the right to substitute personnel upon approval by Client.

5. Client's Responsibilities

Client will make available (or shall cause its agents, consultants, or vendors to make available) such reasonable information as required for Consultant to conduct its services. Such data will be made available as promptly as possible. It is understood by Consultant that the time of Client's personnel is limited, and judicious use of that time is a requirement of this Agreement. It is understood by Client that timely delivery of requested information is a condition to the performance of service by Consultant, and any delay by Client can result in the delay of Consultant's performance of services or delivery of Work Product (defined in Section 6).

6. Confidentiality of Records and Information

Consultant recognizes that Client (including the employee benefit plans sponsored by Client) has protected health information and other proprietary information (collectively, "Information") which are valuable, special, and unique assets of Client. Consultant will not divulge, disclose, or communicate in any manner any Information to any third party without prior written consent. Consultant will protect the Information and treat it as strictly confidential. Consultant understands and agrees to limit its use and disclosure of protected health information as described in Exhibit 3. Provided, however, that Consultant may disclose Information to the extent required by applicable law or regulation or by legal process or requested by applicable regulatory or administrative body upon reasonable notice to Client.

All work product including, but not limited to, reports, written analyses, documents, drawings, plans, specifications, videos, photographs, works of authorship and the like ("Work Product") derived from the Services shall be considered a "Work Made for Hire" as that phrase is defined by the U.S. copyright laws and shall be owned by and for the express benefit of Consultant. If circumstances are such that the Work Product cannot be deemed "Work Made for Hire", it is agreed that all claims of ownership will be assigned to Consultant.

7. Independent Contractor

It is understood and agreed that Consultant is engaged by Client to perform services under this Agreement as an independent contractor. Consultant shall use its best efforts to follow written, oral, or electronically transmitted (i.e., sent via facsimile or e-mail) instructions from Client as to policy, procedure and assignments. Nothing herein shall be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the parties for any purpose. Consultant shall be authorized to engage any subcontractor as it deems necessary or appropriate to perform the services under this Agreement, provided that Consultant shall be responsible for the services performed by such subcontractor(s).

8. Insurance

During the Term and for Three (3) years thereafter, Consultant shall maintain the following policies of insurance: (i) professional liability insurance with limits of not less than \$1,000,000/\$3,000,000 and (ii) commercial general liability insurance with limits of not less than \$1,000,000/\$2,000,000. The commercial general liability insurance policy shall name the City of Brownsville, Texas, as an 'additional insured'. 'Consultant's insurance must be provided by an A.M. Best's "A-" rated or better insurance company authorized to issue insurance policies in the State of Texas, subject to approval by the City of Brownsville Department of Safety and Risk Management. Additionally, Consultant shall maintain Workers Compensation, with the following Minimum Limits unless otherwise prescribed by the Texas Worker's Compensation Act (Section 401): \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit, and \$100,000 bodily injury by disease each employee.

The Consultant shall provide proof of insurance requirement to Client. Consultant shall provide to Client a notice ten (10) days prior to cancellation or modification of any of the required insurance.

9. Fiduciary Responsibility

Client acknowledges that: (i) Consultant shall have limited (Co-Fiduciary Role) discretionary authority or discretionary control respecting the management of any of the employee benefit plans; (ii) Consultant shall exercise limited (Co-Fiduciary Role) authority or control with respect to management or disposition of the assets (if any) of Client's employee benefit plans; and (iii) Consultant shall perform services pursuant to this Agreement in a Co-Fiduciary capacity. Client agrees to notify Consultant as soon as possible of any proposed amendments to the plans' legal documents to the extent that the amendments would affect Consultant in the performance of its obligations under this Agreement.

10. Limitation of Liability

REGARDLESS OF ANY PROVISION TO THE CONTRARY, AND TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT AND CONSULTANT'S AFFILIATES, SUBCONTRACTORS, AND PERSONNEL, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, REGARDLESS OF CAUSE, INCLUDING IF CAUSED BY THE NEGLIGENCE OF CONSULTANT. ADDITIONALLY, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF CONSULTANT AND CONSULTANT'S AFFILIATES, SUBCONTRACTORS, AND PERSONNEL, FOR ANY CLAIMS UNDER THESE TERMS, INCLUDING FOR ANY IMPLIED WARRANTIES, REGARDLESS OF CAUSE, INCLUDING IF CAUSED BY THE NEGLIGENCE OF CONSULTANT, IS LIMITED TO THE AMOUNT CLIENT PAID TO CONSULTANT FOR THE SERVICES. FURTHER,

CONSULTANT MAKES NO SPECIFIC PROMISES ABOUT THE SERVICES OTHER THAN EXPRESSLY SET OUT IN THIS AGREEMENT AND EXCLUDES ALL WARRANTIES TO THE FULLEST EXTENT PERMITTED BY LAW.

11. Indemnification

Unless otherwise provided for in this Agreement, Consultant agrees to indemnify, defend, and hold Client, its representatives and employees harmless and to reimburse Client for any losses Client might suffer, to the extent arising out of the gross negligence or wrongdoing of Consultant, its representatives and employees.

Unless otherwise provided for in this Agreement, Client agrees, to the extent allowed by law, to indemnify, defend, and hold Consultant, its representatives and employees harmless and to reimburse Consultant for any losses Consultant might suffer, to the extent arising out of the gross negligence or wrongdoing of Client, its representatives and employees.

12. Governing Law

This Agreement shall be governed by the laws of the State of Texas (without regard to conflict of laws principles), except to the extent such laws are preempted by applicable federal law. Any claim, dispute, controversy or other matter arising under or related to this Agreement shall be subject to the sole and exclusive jurisdiction of the federal and state courts located in Cameron County, Texas, and all Parties hereto waive any claims of inconvenience or lack of personal jurisdiction with respect to such courts.

13. Entire Agreement

No provision of this Agreement may be modified, waived, or discharged unless such modification, waiver, or discharge is agreed to in writing signed by Consultant and Client. No agreements or representations, oral or otherwise, express or implied, have been made by either party with respect to the subject matter hereof that are not set forth expressly in this Agreement.

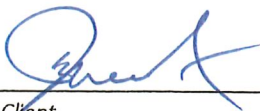
This Agreement shall otherwise bind and inure to the benefit of the parties hereto and their respective successors, assigns, heirs, legatees, devisees, executors, administrators and legal representatives.

All obligations which by necessity extend beyond any date of termination, shall survive the termination of this Agreement.

Consultant and Client acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by Consultant and Client. Consultant and Client agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement shall be construed against the drafter of the agreement, shall have no application to the terms and conditions of this Agreement.

This Agreement is the complete and entire agreement between the parties of their understanding in connection with the Services referred to herein and supersedes all previous or contemporaneous dealings, agreements and/or understandings with respect hereto. Subsequent amendments to this Agreement shall only be in writing signed by both parties.

NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO WAIVE CITY'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW



Signature of Client

03/22/2021

Date

Mayor, City of Brownsville

Title



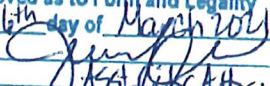
Signature of Consultant

3/23/2021

Date

MANAGING DIRECTOR

Title

"Approved as to Form and Legality
This 16th day of March 2021


Title
Office of the Brownsville City Attorney"

EXHIBIT 1: CONSULTING FEES

- Annual fee of \$150,000 for consultant services to be paid in monthly installments of \$12,500
- 15% Bonus of Annualized Savings based on Net Spend compared to Benchmark
- Annual Savings Bonus cannot exceed \$350,000 in any 12 month period
- Annual Savings Bonus is only payable if Annual Savings exceed \$500,000
- Minimum earned Fees During Initial Term = 50% of initial contract value

15% Bonus Calculation

Step 1.

Creating the Benchmark:

Defining Net Annual Spend = Administrative Cost + Stop Loss Premiums + Claim payments not reimbursed by stop loss coverage.

- Take Average of Past Years Total Net Employer Spend – This can be 2 or 3 years – Employers Choice. *Must use 2019 – 2020 and 2020 – 2021. 2018 – 2019 is Optional.*
- Take Average Member Enrollment for same period of time
- Divide Average Net Employer Spend by Average Monthly Enrollment. This will get to a Per Member Per Month Calculation. Multiply by 12 months to get a Per Member Per Year Calculation (PMPY)

Step 2.

- Take Net Employer Claims from 10/1/21 – 9/30/22 and Paid until 12/31/22 (12 Months Incurred / 15 Months Paid)
- Take member Enrollment from 10/1/21 – 9/30/22
- Divide “Net Employer Spend” by Member Enrollment. This will get to a Per Member Per Month (PMPM) Calculation.
- Multiply PMPM * 12 to get Per Member Per Year (PMPY) Calculation.
- To calculate savings, take the difference in PMPY from Benchmark. Example Below.

Example: Benchmark - \$12,500 PMPY / Current - \$11,500 PMPY. Savings = \$1,000 PMPY.

Assuming 1200 Members (Belly Buttons on the plan)

$1200 * 1000 = \$1,200,000$ in Annual Savings

15% Bonus = \$180,000

EXHIBIT 2: SCOPE OF SERVICES

Strategic Planning	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Executive management meetings and benefits philosophy development		√	Monthly or As Required
Multi-year strategy	√		Ongoing
Benchmarking with peer group	√		Annually
Specific recommendations to address utilization patterns	√		Ongoing
Employee contribution strategies / Modeling	√		Annually
Development of prototype plan design options	√		Ongoing
Evaluation and Analysis	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Evaluation of current and alternative networks and disruption studies (providers, claimants and dollars)	√		Ongoing
Research, analyze and recommend business process outsourcing as appropriate (e.g., benefit administration, FMLA compliance)		√	As Required
Evaluation of current and alternative vendor capabilities (all coverages)	√		Ongoing
Underwriting and Actuarial	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Multi-year cost projections and forecasting	√		Ongoing
Large claim tracking	√		Ongoing
Plan design change modeling (incremental changes to current plans as well as translation models that allow conversion from one health care delivery system to another)	√		Quarterly
Experience monitoring, including: - Trend analysis	√		Quarterly
- Utilization analysis	√		Quarterly

- Pharmacy utilization analysis	√		Quarterly
Annual review of medical network usage	√		Annually
Renewals and RFPs	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Medical and prescription drug RFP		√	As Stipulated or Required
Dental RFP		√	As Stipulated or Required
Basic Life and AD&D RFP		√	Specific to rate guarantee period
Benefits administration platform selection process and RFP		√	As Requested
Vision RFP		√	As Stipulated or Required
Voluntary Benefits – Life, Personal Accident, Short-term and Long-term Disability, Accident Indemnity		√	As Stipulated or Required
FSA, HSA, EAP, COBRA, Section 125, Transportation Benefits, etc. RFPs		√	As Stipulated or Required
Wellness	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Development of wellness operating plan based on needs, vendor review and implementation support		√	As Required
Initial evaluation and consult from Health Risk Management upon signing initial contract	√		Within first 100 days
Employee wellness survey		√	As Required
Compliance	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Analysis and advice arising under STATE, Tax Code, and COBRA	√		Monthly
Review of service agreements, contracts, and SPDs from vendors	√		Ongoing
Email news updates on relevant topics impacting health and welfare plans	√		As alerts are distributed
HIPAA privacy and security training and toolkit	√	√	Ongoing / As Requested
Implementation and Communication	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Ensure final plan parameters are executed in accordance with client's expectations	√		Ongoing
Coordinate / Manage vendor(s) on plan changes and implementation timelines	√		Ongoing
Manage implementation of new	√		Ongoing

vendor(s), if applicable			
Develop and monitor implementation schedule with vendors	√		Ongoing
Verify accuracy of ID cards and other employee materials	√		Ongoing
Confirm plan data is configured properly for claim payment system	√		Ongoing
Project management of all vendors involved in the production and distribution of open enrollment and other communication materials	√		Ongoing
Creation of open enrollment guide and annual enrollment materials based on client's branding	√		Standard benefit booklet provided – printing cost up to \$5,000 Annually
Employee Response Center and Enrollment meeting support during annual enrollment (locations to be determined)	√		Ongoing
Vendor Management and Day-to-Day Services	Scheduled/ Ongoing	As Requested	Additional Fee and/or Frequency Limit
Issue tracking log	√		Ongoing
Problem avoidance and resolution	√		Ongoing
Claims advocacy and resolution	√		Ongoing
Dedicated resource for ongoing claim issues and day to day administrative support	√		Ongoing
Establish and monitor performance guarantee metrics	√		Ongoing
Schedule and drive vendor meetings	√		Ongoing

EXHIBIT 3: BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the "Agreement") is entered into by and between The City of Brownsville ("Plan Sponsor"), on behalf of the employee benefit plans set forth on Exhibit A (collectively, the "Plan") and Higginbotham Insurance Agency, Inc. ("Business Associate") (together referred to as the "Parties") effective April 1, 2021.

WHEREAS, the Plan sponsored by Plan Sponsor is a group health plan as defined in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "Privacy Regulations") and Title 45, Parts 160, 162 and 164 of the Code of Federal Regulations (the "Security Regulations") (together, the "Privacy and Security Regulations") adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");

WHEREAS, Business Associate and Plan Sponsor entered into an agreement ("Underlying Agreement") whereby Business Associate will perform services on behalf of the Plan; and

WHEREAS, the Parties wish to set forth their understandings with regard to the use and disclosure of Protected Health Information ("PHI") by Business Associate in performance of its obligations in compliance with the Privacy and Security Regulations (as amended to incorporate Subtitle D of the Health Information Technology for Economic and Clinical Health Act, Title XIII of Public Law 111-005 (42 U.S.C.A. Section 17921 et seq., subchapter III, Privacy) ("HITECH")).

In consideration of the mutual promises set forth below, the parties hereby agree as follows:

1. Definitions. Where not defined herein, capitalized terms shall have the meanings given to them in the Privacy and Security Regulations, which are incorporated herein by reference.

2. Use and Disclosure of Protected Health Information. The Plan Sponsor and Business Associate hereby agree to comply with the privacy and security requirements of HIPAA, as set forth in the Privacy and Security Regulations. Business Associate shall use and/or disclose PHI only to the extent necessary in furtherance of Business Associate's obligations and duties under the Underlying Agreement with the Plan Sponsor and as authorized or permitted by the Privacy and Security Regulations and this Agreement, subject to the following:

(a) Business Associate shall disclose PHI to other business associates of the Plan to the extent necessary for purposes of the Plan's Payment and Health Care Operations, provided such other business associates have business associate agreements in place with the Plan Sponsor (or the Plan) as required by the Privacy Regulations (and a copy of the applicable provisions of such other business associate agreements will be provided to Business Associate upon request).

(b) Business Associate shall disclose PHI to the Plan Sponsor to the extent necessary for the Plan Sponsor's administration activities that constitute Payment or Health Care Operations,

provided the Plan document has been amended as required by the Privacy Regulations (and a copy of the applicable provisions of the Plan document will be provided to Business Associate upon request).

(c) Business Associate may disclose Summary Health Information to the Plan Sponsor for the purpose of (i) obtaining bids for health or stop loss insurance for the Plan, or (ii) modifying, amending or terminating the Plan.

(d) Business Associate may not Use or Disclose PHI in a manner that would violate the Privacy or Security Regulations if done by the Plan, except as set forth in Section 4 and 5.

3. Prohibition on Unauthorized Use or Disclosure of PHI. Business Associate shall not use or disclose any PHI received from or on behalf of the Plan, except as permitted or required by the Underlying Agreement, this Agreement, the Privacy and Security Regulations, and as required by law. Business Associate shall comply with the applicable provisions of: (a) the Privacy and Security Regulations; (b) state laws, rules and regulations applicable to individually-identifiable health information not preempted by federal law; and (c) the Plan's health information privacy policies and procedures. To the extent Business Associate is required under this Agreement or the Underlying Agreement to carry out an obligation of the Plan under the Privacy Regulations, Business Associate shall comply with the requirements of the Privacy Regulations that apply to the Plan in the performance of such obligations.

4. Business Associate's Operations. Business Associate may use PHI it creates for or receives from the Plan, in its capacity as a Business Associate, to the extent necessary for Business Associate's proper management and administration. Business Associate may disclose PHI for the proper management and administration of Business Associate but only if:

- (a) The disclosure is required by law; or
- (b) Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall:
 - (i) Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as required by law; and
 - (ii) Notify Business Associate (who shall in turn promptly notify the Plan) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached as soon as possible.

5. Data Aggregation Services. Business Associate may use PHI to provide Data Aggregation Services related to the Plan's Health Care Operations.

6. PHI Safeguards. Business Associate has adopted and will enforce policies and procedures to reasonably ensure compliance with the Privacy and Security Regulations, including but not limited to requiring workforce members and subcontractors to report immediately to Business Associate any Use and/or Disclosure of PHI that is not permitted by this Agreement, including a Breach of Unsecured PHI or any Security Incident. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI relating to the Plan.

7. Electronic Health Information Security and Integrity. Business Associate represents and warrants that it is compliant with all applicable requirements of the Security Regulations. Business

Associate further represents and warrants that it has fully developed and implemented, and maintains and uses appropriate administrative, technical and physical security measures consistent with and in compliance with the Security Regulations to preserve the integrity, confidentiality and availability of all electronic PHI that it creates, receives, maintains or transmits on behalf of the Plan. Business Associate shall document and keep its security measures current in accordance with the Security Regulations.

8. Protection of Exchanged Information in Electronic Transactions. If Business Associate conducts any Standard Transaction for or on behalf of the Plan, Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of the Privacy and Security Regulations.

9. Subcontractors and Agents. Business Associate shall require each of its subcontractors or agents to whom Business Associate may provide PHI on behalf of the Plan to agree to written contractual provisions that impose obligations at least as stringent as are imposed on Business Associate by this Agreement. Business Associate shall maintain a list of all subcontractors and agents to which it provides the Plan's PHI, and it will provide the list to the Plan upon request.

10. Access to PHI. Within fifteen (15) business days after receiving a written request from the Plan, Business Associate shall provide access to PHI in a Designated Record Set, to the Plan or, as directed by the Plan, to an Individual to meet the requirements under Title 45, Section 164.524 of the CFR or applicable state law.

11. Amending and Restricting PHI. Within fifteen (15) business days after receiving a written request from the Plan, Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the Plan directs or agrees to pursuant to Title 45, Section 164.526 of the CFR. Within fifteen (15) business days after receiving a written request by the Plan for any other restriction(s) on the Disclosure of PHI, Business Associate shall as soon as practicable implement such restriction(s).

12. Accounting for Disclosures of PHI.

(a) Business Associate shall document all disclosures of PHI and information related to such disclosures as would be required for the Plan to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Section 164.528 of the CFR.

(b) Within fifteen (15) business days after receiving a written request from the Plan, Business Associate agrees to provide the Plan information collected in accordance with Section 12(a) above, to permit the Plan to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Section 164.528 of the CFR. Business Associate shall provide the accounting directly to an Individual upon request by the Plan.

13. Access to Books and Records. Within fifteen (15) business days after receiving a written request by the Plan for such information, or such shorter period as required by the Secretary, Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of the Plan available to the Plan and to HHS or its designee for the purpose of determining the Plan's compliance with the Privacy Regulations.

14. Event Reporting and Documentation.

(a) Definition. For purposes of this Agreement, "Event" shall mean any use or disclosure of PHI not permitted (1) under the Privacy Regulations, including events that rise to the level of a Breach, (2) under this Agreement or (3) by law, or that is a Security Incident.

(b) Event Reporting. Business Associate shall provide written notice as soon as practicable to the Plan's Privacy Official (contact information listed below) of any Event of which it has reasonable suspicion or discovers. This notice shall identify a contact person with whom the Plan may correspond regarding the Event. The Parties acknowledge and agree that this Section constitutes notice by Business Associate to the Plan of the ongoing existence and occurrence of unsuccessful Security Incidents for which notice to the Plan by Business Associate shall be required only upon request of the Plan, which shall not be more often than once in a 12-month period.

(c) Business Associate shall document all Breaches of Unsecured PHI that are discovered by Business Associate as would be required for the Plan to report Breaches to the Secretary in accordance with 45 C.F.R. §164.408(c).

(d) Within sixty (60) days from the date of discovery, Business Associate shall provide the Plan a written report identifying or describing: (i) the affected Individual whose Unsecured PHI has been or is reasonably believed to have been accessed, acquired or disclosed; (ii) the incident, including the date of the Breach and the date of the discovery of the Breach, if known; (iii) who made the unauthorized use and/or received the unauthorized disclosure; (iv) the types of Unsecured PHI involved in the Breach; (v) any specific steps the affected Individual should take to protect him or herself from potential harm related to the Breach; (vi) what the Business Associate is doing to investigate the Breach, to mitigate losses and to protect against further Breaches; (vii) contact procedures for how the affected Individual can obtain further information from the Business Associate; (viii) a recommended plan of notifications to affected Individuals, HHS and/or the media, as may be appropriate or required by law; and (ix) such other information as reasonably requested by the Plan's Privacy Official.

(e) Business Associate shall conduct the risk assessment to determine whether a Breach occurred and inform the Plan of its assessment. If in the opinion of the Plan the incident qualifies as a Breach, the Business Associate shall carry out the appropriate notification responsibilities, after receiving the Plan's approval of the Business Associate's plan of proposed notifications and the specific content of such notifications.

<i>Plan Privacy Official:</i>	<u>City of Brownsville</u> <u>Perla Cepeda</u> <u>Organizational Development & Human Resources</u> <u>Director</u>
<i>Fax:</i>	
<i>Higginbotham Privacy Official:</i>	<u>Ross Carmichael or VP of Compliance</u> <u>500 W. 13th Street</u> <u>Fort Worth, TX 76102</u>
<i>Fax:</i>	<u>(817) 882-9341</u>

15. Sale of PHI. Neither the Plan nor the Business Associate shall receive direct or indirect payment in exchange for any PHI relating to the Plan or its Individuals in such a way as to violate HIPAA, except as permitted under the Privacy Regulations, including 45 CFR Part 164.

16. Marketing. Business Associate shall not receive direct or indirect payment for marketing communications which include PHI relating to the Plan or its Individuals without authorization from the affected Individuals, unless such communication is permitted under the Privacy Regulations, including 45 CFR Part 164.

17. Restrictions on Uses, Disclosures and Requests.

(a) Business Associate will limit all uses, disclosures and requests of PHI, including electronic PHI, to the Limited Data Set to the extent possible or, if that is not sufficient, to the minimum necessary to accomplish the intended purpose of such use, disclosure or request, to the extent required by the Privacy Regulations. Business Associate shall maintain a written policy delineating the standards it will use in determining the minimum necessary information for its uses and disclosures of PHI in accordance with standards set forth in the Privacy Regulations.

(b) Upon the request of an Individual, Business Associate will not disclose such Individual's PHI for purposes of Payment or Health Care Operations if the Individual paid in full out of pocket for the health care item or service to which the PHI relates, in accordance with 45 CFR section 164.522.

18. Mitigation. Business Associate 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 Agreement.

19. Termination for Cause. As required by the Privacy Regulations, if the Plan or Business Associate ("Non-Breaching Party") becomes aware that the other party to this Agreement has engaged in a material breach ("Breaching Party"), then the Non-Breaching Party shall:

(a) Provide an opportunity for the Breaching Party to cure the breach. If the Breaching Party does not cure the breach or end the violation within thirty (30) days of notice from the Non-Breaching Party, then the Non-Breaching Party shall have the right to terminate this Agreement and the Underlying Agreement, if termination is feasible.

(b) Immediately terminate this Agreement and the Underlying Agreement if cure is not possible and if termination is feasible.

(c) If neither termination nor cure is feasible, Business Associate may report the violation to the Secretary.

20. Return or Destruction of Health Information.

(a) Except as provided in Section 20(b) below, and subject to any record retention provisions of the Underlying Agreement, upon termination, cancellation, expiration or other conclusion of this Agreement and the Underlying Agreement, Business Associate shall return to the Plan or destroy all PHI created or received by Business Associate on behalf of the Plan. Business Associate shall retain no copies of the PHI. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Business Associate.

(b) In the event that the Business Associate determines, in its discretion, that returning or destroying the PHI is infeasible, Business Associate shall retain the PHI, extend the protections of this Agreement to such PHI and maintain the confidentiality of all such PHI, for so long as Business Associate

maintains such PHI. The obligations of Business Associate under this Section 20(b) shall survive termination of this Agreement and the Underlying Agreement.

21. Obligations of Plan Sponsor.

(a) The Plan Sponsor shall provide Business Associate a copy of the Plan's Notice of Privacy Practices.

(b) The Plan Sponsor shall notify Business Associate of any restriction to the use or disclosure of PHI that the Plan has agreed to (and any revocation of such a restriction), to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(c) The Plan Sponsor shall notify Business Associate of any change in, or revocation of, permission by and Individual to use or disclose PHI, to the extent that such change or revocation may affect Business Associate's use or disclosure of PHI.

(d) The Plan Sponsor shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Regulations if done by the Plan, except as permitted in Sections 4 and 5 above.

22. Automatic Amendment. Upon the effective date of any amendment to the Privacy and Security Regulations or any applicable regulations thereunder with respect to PHI that mandates a change to the obligations of the Parties under this Agreement, the Agreement shall automatically be deemed to be amended to incorporate such amendment to the Privacy and Security Regulations and applicable regulations so that Business Associate and the Plan remain in compliance with the Privacy and Security Regulations and applicable regulations.

23. Hold Harmless. Business Associate shall indemnify and hold Plan Sponsor and its affiliates, employees, directors, trustees and agents harmless from and against all obligations, liabilities, penalties, taxes, costs, damages, losses or expenses (including reasonable attorneys' fees) of any sort which may be imposed on or incurred by the Plan Sponsor or the Plan in connection with, or arising out of, a Breach by Business Associate or any of its subcontractors or the performance or breach of Business Associate's, or any of its subcontractors' responsibilities and obligations under the Privacy and Security Regulations or this Agreement.

Plan Sponsor, to the extent allowed by law, shall indemnify and hold Business Associate and its affiliates, employees, directors, trustees and agents harmless from and against all obligations, liabilities, penalties, taxes, costs, damages, losses or expenses (including reasonable attorneys' fees) of any sort which may be imposed on or incurred by the Business Associate in connection with, or arising out of, a Breach by the Plan or the Plan Sponsor or any of its subcontractors, or the performance or breach of the Plan's or the Plan Sponsor's, or any of their subcontractors', responsibilities and obligations under the Privacy and Security Regulations or this Agreement.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

25. Independent Contractor. The Parties are and shall remain independent contractors throughout the term of this Agreement. Nothing in this Agreement or otherwise shall be construed to constitute Business Associate and the Plan Sponsor as partners, joint ventures, agents or anything other than independent contractors.

26. Facsimile Signature. Signature pages may be transmitted by facsimile, e-mail or other electronic means. Upon delivery via facsimile, e-mail or other electronic means, a signature shall be deemed an original and shall be admissible in evidence.

27. Governing Law. This Agreement shall be governed by the laws of the State of Texas (without regard to conflict of laws principles), except to the extent such laws are preempted by applicable federal law. Any claim, dispute, controversy or other matter arising under or related to this Agreement shall be subject to the sole and exclusive jurisdiction of the federal and state courts located in Cameron County, Texas, and all Parties hereto waive any claims of inconvenience or lack of personal jurisdiction with respect to such courts.

28. Entire Agreement. This Agreement embodies the entire agreement and understanding between the Parties hereto with respect to the subject matter hereof, and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement shall affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement.

29. Regulatory Reference. A reference in this Agreement to a section in the Privacy and Security Regulations or to a section of the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.

30. Survival. The respective rights and obligations of the Parties under Sections 20 and 23 of this Agreement shall survive the termination of this Agreement.

31. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Plan to comply with the Privacy and the Security Regulations. When a section of the Agreement calls for Business Associate to respond to a request from the Plan in conjunction with a regulation specifically cited in the section, Business Associate may rely on the Plan's request as verification by the Plan that the request is made in compliance with the regulation. Business Associate is not responsible for confirming that the Plan's request is made in compliance with the specific regulation.

32. Final Agreement. This Agreement supersedes all prior Business Associate Agreements between the parties with respect to the Underlying Agreement.

33. Effect on Services Agreement. Except as relates to the Use, Disclosure and security of PHI and electronic PHI, or as otherwise expressly provided in this Agreement, or under applicable law, the rights and obligations of the Parties under the Underlying Agreement shall not be changed or limited by this Agreement.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf, effective as of March 16, 2021

City of Brownsville

By:
Its:

Trey Mender
Mayor

Higginbotham Insurance Agency, Inc.

By: Ross Carmichael
Its: Vice President of Compliance and Operations

"Approved as to Form and Legality
This 16 day of March 2021
Title Asst. City Atty.
Office of the Brownsville City Attorney"

EXHIBIT A
EMPLOYEE BENEFIT PLANS / RELATIONSHIPS

- Group Medical and Rx
- Group Dental
- Group Life
- Data Analytics
- Vendor Management Including BAA



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Helen Ramirez, City Manager
Date: Tuesday, November 7, 2023
Agenda #: Public Hearing and **ACTION** on **FIRST READING** on **Ordinance Number 2023-1701-A**, amending Chapter 102 Utilities, Article III Rates and Charges, Section 102-81, of the Code of Ordinances to cancel scheduled adjustments to the Resaca Fee; setting a Public Hearing thereon; and providing a severability clause and effective date. (Brownsville Public Utilities Board)

Summary:

BPUB has reviewed its water and wastewater rates, fees and charges, and recommends and requests that Section 102-81 of Chapter 102 of the City's Code of Ordinances be amended to cancel scheduled adjustments to resaca fee such that said fee remains fixed in the amount of \$6.25 and is not increased on January 1, 2024, and January 1, 2026, as contemplated by City Ordinance No. 2022-1701.

Project Scope and Analysis:

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

Staff recommends adoption.

Commission Pillar:

Governance
Quality of Life
Infrastructure

Attachments:

1. COB Agenda document - BPUB - Resaca Fee Ordinance Amendment

ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, AMENDING SECTION 102-81 OF THE CODE OF ORDINANCES TO CANCEL SCHEDULED ADJUSTMENTS TO THE RESACA FEE; SETTING A PUBLIC HEARING THEREON; AND PROVIDING A SEVERABILITY CLAUSE AND EFFECTIVE DATE.

WHEREAS, pursuant to Article VI, Sec. 1(b) of the City Charter, the Public Utilities Board of the City of Brownsville, Texas (“BPUB”) is vested with all of the powers of the City of Brownsville, Texas (the “City”) with respect to the expenditures and application of the revenues from the management and operation of the water and wastewater utility systems owned by the City, “except for the fixing of rates, fees and charges for such services;”

WHEREAS, pursuant to Article VI, Sec. 4(b) of the City Charter, BPUB shall periodically “review the rates, fees and charges for services rendered by the utilities system, . . . and in the event such review reflects a necessity for the adjustment . . . of such rates, fees and charges, then BPUB shall submit to the City Commission a report of the review,” explaining “the basis upon which the proposed adjustment is predicated, accompanied by a written request for approval and adoption of the rates, fees and charges recommended by BPUB;”

WHEREAS, Article VI, Sec. 4(b) of the City Charter further provides that the City Commission shall pass an ordinance placing in effect the rates, fees, and charges recommended by BPUB only if the City Commission approves the adjustment(s) thus recommended;

WHEREAS, BPUB has reviewed its water and wastewater rates, fees and charges, and recommends and requests that Section 102-81 of Chapter 102 of the City’s Code of Ordinances be amended to cancel scheduled adjustments to resaca fee such that said fee remains fixed in the amount of \$6.25 and is not increased on January 1, 2024, and January 1, 2026, as contemplated by City Ordinance No. 2022-1701; and

WHEREAS, BPUB, pursuant to Resolution No. 2023-0911(CIC-3), bases its request upon a sound evaluation consistent with applicable ratemaking standards, and upon recommendations of BPUB staff and consultants, which have been provided with BPUB’s recommendations;

WHEREAS, pursuant to Article IV, Sec. 6 of the City Charter, “the entire income from the municipal waterworks system, . . . sewer system, or other public utilities owned now or hereafter by the City” is set aside for certain purposes enumerated therein, including “the maintenance and repair of such public utilities so that same shall continue to operate efficiently,” and the “cost of such extensions and repairs, as in the judgment of the City Commission are necessary to keep the utility systems in operation and render adequate service to the City and its inhabitants or such as may be necessary to meet some physical accident or condition which would otherwise impair the efficient operation of the utility systems;”

WHEREAS, the City Commission hereby finds that the recommendations of BPUB are reasonable and necessary to ensure the efficient operation of the utility systems, keep such systems in operation, and render adequate service to the City and its inhabitants and, therefore, should be approved and adopted in order to provide for the continued preservation of the public health, safety, and welfare of the people;

WHEREAS, BPUB presented a draft ordinance, Ordinance No. 2023-____, that provided acceptable language to implement the amendment to Section 102-81 of the City’s Code of Ordinances to adjust the resaca fee such that said fee remains fixed in the amount of \$6.25, and, upon conclusion of the public hearing, on _____, 2023, the City Commission, by unanimous vote, approved the adjustment to the resaca fee, which adjustment continues to leverage federal funding available under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act and ongoing resaca restoration programs involving the United States Army Corps of Engineers;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS:

Section 1. Amendment to Chapter 102, Utilities, art. III, Rates and Charges. Section 102-81, chapter 102 of the Code of Ordinances of the City of Brownsville, Texas is hereby repealed and replaced to implement a fixed resaca fee and provide as follows:

Sec. 102-81. Resaca Fee.

A monthly resaca fee of \$6.25 is applicable to a retail water customer.

Section 2. Public Hearing. A hearing for public input as to the fee adjustments set forth in Section 1 of this Ordinance will be held at 5:00 p.m., _____, 2023, in City Commission Chambers at City Hall.

Section 3. Severability. If any section, sentence, phrase, or clause of this Ordinance is declared by a Court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, such declaration shall not be deemed to affect the remaining sections, sentences, phrases, or clauses of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective at 12:01 a.m. on the date of final approval upon second reading, as provided by the Charter of the City of Brownsville and the laws of the State of Texas.

PASSED and APPROVED following a public hearing on FIRST READING on the _____ day of _____, 2023.

PASSED and APPROVED on SECOND READING on the _____ day of _____, 2023.

John Cowen, Jr.
Mayor

Yolanda “Yoli” Galarza
City Secretary

RESOLUTION NO. 2023-0911(CIC-3)

A RESOLUTION REQUESTING THE CITY COMMISSION AMEND SECTION 102-81 OF THE CODE OF ORDINANCES, ENTITLED “RESACA FEE,” TO PROVIDE FOR ADJUSTMENTS TO SAID RESACA FEE

WHEREAS, pursuant to Article VI, Section 1(b) of the Charter of the City of Brownsville, Texas (the “Charter”), the Public Utilities Board of the City of Brownsville, Texas (“BPUB”) is vested with all of the powers of the City of Brownsville, Texas (the “City”) with respect to the expenditures and application of the revenues from the management and operation of the water and wastewater utility systems owned by the City, “except for the fixing of rates, fees and charges for such services;” and

WHEREAS, Article VI, Section 4(b) of the Charter requires BPUB to periodically “review the rates, fees and charges for services rendered by the utilities system, . . . and in the event such review reflects a necessity for the adjustment . . . of such rates, fees and charges, then [BPUB] shall submit to the City Commission a report of the review,” explaining “the basis upon which the proposed adjustment is predicated, accompanied by a written request for approval and adoption of the rates, fees and charges recommended by BPUB;” and

WHEREAS, as part of the management and operation of the water and wastewater utility systems, BPUB maintains and improves portions of the City’s resaca system to, among other things, increase raw water storage; and

WHEREAS, in connection with said maintenance and improvement, BPUB and the City have collaborated with the U.S. Army Corps of Engineers to receive federal funding for the “Resacas In The Vicinity of The City of Brownsville, Texas, Ecosystem Restoration Project” (the “USACE Project”); and

WHEREAS, BPUB has also collaborated with the City to receive federal resaca maintenance and improvement funding under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (the “RESTORE Act Project”); and

WHEREAS, BPUB previously engaged an independent consulting and engineering firm, Willdan Group, Inc., to complete a study of the adequacy of water and wastewater rates, fees and charges (the “Rate Study”); and

WHEREAS, the Rate Study was prepared in light of customer growth, increased operating costs, and projected capital improvements required over the next decade; included potential options for recovery of existing and planned resaca-related costs; and is consistent with the Charter, City bond ordinances, and applicable law and ratemaking principles; and

WHEREAS, the Rate Study recommended adoption of a resaca fee to recover costs related to resaca maintenance and improvement programs, including options for phasing in these rates, fees and charges; and

WHEREAS, BPUB staff reviewed the Rate Study and, based on thereon, recommended that BPUB adopt a resaca fee to finance non-federally funded portions of the USACE Project and the RESTORE Act Project; and

WHEREAS, pursuant to BPUB Resolution No. 2022-0314-(IC6), approved March 14, 2022, BPUB found that adoption of a resaca fee and certain specified annual increases thereto was reasonable and necessary to effectuate the public purpose of recovering costs related to the maintenance and improvement of City resacas used and useful in supporting the water and wastewater utility systems under BPUB's management and control; and

WHEREAS, BPUB submitted the Rate Study and BPUB Resolution No. 2022-0314-(IC6) to the City Commission, thereby providing a written request for approval and adoption of the rates, fees and charges therein recommended by BPUB; and

WHEREAS, the City Commission found that said recommendation was reasonable and necessary for the public purpose of operating the City's water and wastewater systems and should be adopted in order to provide for the continued preservation of the public health, safety, and welfare of the people; and

WHEREAS, pursuant to City Ordinance No. 2022-1701, approved May 3, 2022, the City Commission added Section 102-81 to Chapter 102 of the City's Code of Ordinances, adopting a resaca fee of \$4.50, effective June 1, 2022; a resaca fee of \$6.25, effective January 1, 2023; a resaca fee of \$10.00, effective January 1, 2024; and a resaca fee of \$12.00, effective January 1, 2016; and

WHEREAS, BPUB staff has further reviewed BPUB's water and wastewater rates, fees and charges, and recommends that Section 102-81 of Chapter 102 of the City's Code of Ordinances be amended such that the resaca fee remain fixed in the amount of \$6.25 and that said amount not be increased on January 1, 2024, and January 1, 2026, as contemplated by City Ordinance No. 2022-1701; and

WHEREAS, BPUB has determined that said recommendation is based upon a sound evaluation consistent with applicable ratemaking standards and is in the public interest of BPUB's utility customers; now, therefore,

BE IT RESOLVED BY THE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS:

1. That BPUB finds that the recommended adjustment to the resaca fee is reasonable and necessary to effectuate the public purpose of recovering costs related to the maintenance and improvement of City resacas used and useful in supporting the water and wastewater utility systems under BPUB's management and control.

2. That the General Manager and Chief Executive Officer submit immediately the recommendation to amend Section 102-81 of the City's Code of Ordinances to the City

Commission together with a copy of this Resolution and a draft ordinance reflecting the requested adjustment of the monthly resaca fee such that it remains fixed in the amount of \$6.25.

3. That BPUB, by this Resolution, requests in writing that the City Commission approve and adopt the aforementioned recommendation by passing an appropriate ordinance amending Section 102-81 of the City's Code of Ordinances to adjust the resaca fee currently in effect.

PASSED and APPROVED this 11th day of September 2023.

Arthur Rendon

Arthur "Art" Rendon, Chair
Public Utilities Board of the
City of Brownsville, Texas

Daisy Zamora

Daisy Zamora, Ph.D.,
Secretary/Treasurer
Public Utilities Board of the
City of Brownsville, Texas



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Lupe Granado, Finance Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** on **Resolution Number 2023-126**, authorizing the replacement of Computershare Trust Company, N.A., as paying Agent/Registrar for the City of Brownsville's outstanding debt obligations and the appointment of a successor paying Agent/Registrar for such debt obligations. (Financial Services Department)

Summary:

The City of Brownsville is requesting authorization to replace our current paying agent.

Project Scope and Analysis:

The Finance Department requested support from **Estrada Hinojosa & Company, Inc.**, our City's Financial Advisor, to request informal proposals for our paying agent/registrar services. Here are the criteria used to evaluate those proposals:

1. Please list the team that will provide the PA/R services as well as a summary of your firm's experience including experience with similar issuers and/or similar programs.
2. Please provide a summary of your firm's workforce diversity by race and sex. What steps has your firm taken to be more diverse?
3. Please provide your annual fees for an initial 5-year term assuming PA/R services on the obligations listed in Exhibit A and to serve as PA/R on all future publicly sold issues of the City delivered through February 15, 2029. Please provide a description and dollar amount for any additional fees charged. Please provide fees to serve as escrow agent on any future refundings.
4. Please include any proposed changes to the Paying Agent Agreement attached in Exhibit B.
5. Please include a Paying Agent/Registrar accuracy performance report for the past three (3) years.

The finance department received proposals and evaluated that UMB Bank was the top choice in terms of costs and experience for this service.

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

The recommendation is to approve the replacement of our paying agent

Commission Pillar:

Governance

Attachments:

1. Brownsville Reso Replacing Paying Agent-2
2. Procurement Analysis - UMB Bank

CERTIFICATE FOR RESOLUTION

I, the undersigned City Secretary of the **CITY OF BROWNSVILLE, TEXAS** (the "**City**"), hereby certify as follows:

1. The City Commission of the City (the "**City Commission**") convened in Regular Meeting at the City Hall, City of Brownsville, Texas, on November 7, 2023 (the "**Meeting**"), and the roll was called of the duly constituted officers and members of the City Commission, to wit:

John Cowen, Jr., Mayor
Bryan L. Martinez, Commissioner, District 1
Linda C. Macias, Commissioner, District 2
Roy De los Santos, Commissioner, District 3

Pedro Cardenas, Commissioner, District 4
Rose M. Z. Gowen, M.D., Commissioner at Large "B"
Tino Villarreal, Jr., Commissioner at Large "A"

and all of said persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written Resolution entitled:

**RESOLUTION AUTHORIZING THE REPLACEMENT OF
COMPUTERSHARE TRUST COMPANY, N.A. AS PAYING
AGENT/REGISTRAR FOR THE CITY OF BROWNSVILLE'S
OUTSTANDING DEBT OBLIGATIONS AND THE APPOINTMENT OF A
SUCCESSOR PAYING AGENT/REGISTRAR FOR SUCH DEBT
OBLIGATIONS**

(the "**Resolution**") was duly introduced for the consideration of the City Commission. It was then duly moved and seconded that the Resolution be passed; and, after due discussion, said motion, carrying with it the passage of the Resolution, prevailed and carried by the following vote:

AYES: ____ NOES: ____ ABSTENTIONS: ____

2. A true, full and correct copy of the Resolution passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; the Resolution has been duly recorded in the City Commission' minutes of the Meeting; the above and foregoing paragraph is a true, full and correct excerpt from the City Commission' minutes of the Meeting pertaining to the passage of the Resolution; the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Commission as indicated therein; each of the officers and members of the City Commission was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of said officers and members consented, in advance, to the holding of the Meeting for such purpose; and the Meeting was open to the public, and public notice of the time, place and purpose of the Meeting was given, all as required by Texas Government Code, Chapter 551.

SIGNED AND SEALED 7th day of November, 2023.

City Secretary
City of Brownsville, Texas

(CITY SEAL)

RESOLUTION AUTHORIZING THE REPLACEMENT OF
COMPUTERSHARE TRUST COMPANY, N.A. AS PAYING
AGENT/REGISTRAR FOR THE CITY OF BROWNSVILLE'S
OUTSTANDING DEBT OBLIGATIONS AND THE APPOINTMENT OF A
SUCCESSOR PAYING AGENT/REGISTRAR FOR SUCH DEBT
OBLIGATIONS

THE STATE OF TEXAS
COUNTY OF CAMERON
CITY OF BROWNSVILLE

§
§
§

WHEREAS, the CITY OF BROWNSVILLE, TEXAS (the "**City**") has outstanding the following issues of obligations in which Computershare Trust Company, N.A. (the "**Bank**"), serves as the paying agent/registrar pursuant to individual paying agent/registrar agreements between the City and the Bank (such paying agent/registrar agreements collectively referred to herein as the "**Paying Agent/Registrar Agreements**");

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Taxable Series 2012B (the "**Series 2012B Certificates**");

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2013A (the "**Series 2013A Certificates**");

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2014 (the "**Series 2014 Bonds**");

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2015 (the "**Series 2015 Certificates**");

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2016 (the "**Series 2016 Certificates**");

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2016 (the "**Series 2016 Bonds**");

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2016A (the "**Series 2016A Bonds**");

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2017 (the "**Series 2017 Certificates**");

City of Brownsville, Texas Public Property Finance Contractual Obligations, Series 2017 (the "**Series 2017 Obligations**");

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2017A (the "**Series 2017A Bonds**");

City of Brownsville, Texas Combination Tax and Airport Revenue Certificates of Obligation, Series 2018 (AMT) (the "**Series 2018 Certificates**");

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2019A (the “*Series 2019A Bonds*”);

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019 (the “*Series 2019 Certificates*”);

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2020 (the “*Series 2020 Certificates*”);

City of Brownsville, Texas General Obligation Refunding Bonds, Taxable Series 2020B (the “*Series 2020B Bonds*”);

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2020A (the “*Series 2020A Bonds*”);

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2020A (the “*Series 2020A Certificates*”);

City of Brownsville, Texas General Obligation Refunding Bonds, Series 2021 (AMT) (the “*Series 2021 Bonds*”);

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2021 (the “*Series 2021 Certificates*”);

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2022 (the “*Series 2022 Certificates*”); and

City of Brownsville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2023 (the “*Series 2023 Certificates*”).

WHEREAS, the City Commission deems it prudent and appropriate to (i) terminate the Paying Agent/Registrar Agreements between the City and the Bank relating to the Obligations; and (ii) further appoint UMB Bank, N.A. to serve as successor paying agent/registrar for the Obligations; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code;

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS THAT:

SECTION 1. TERMINATION OF COMPUTERSHARE TRUST COMPANY, N.A. AS PAYING AGENT/REGISTRAR AND APPOINTMENT OF SUCCESSOR PAYING AGENT/REGISTRAR. The City hereby (i) terminates the Paying Agent/Registrar Agreements between the City and the Bank in connection with the Bank serving as paying agent/registrar for the Obligations; and (ii) appoints UMB Bank, N.A. to serve as successor paying agent/registrar for the Obligations.

The Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, Assistant City Manager, and Chief Financial Officer are each hereby authorized to give appropriate notices and approve and execute all documents and agreements, including the paying agent/registrar agreements to be entered into with the successor paying agent/registrar (i.e., UMB Bank, N.A.) for the Obligations, on behalf of the City and which are deemed necessary to accomplish the purposes of this Resolution, and the City Secretary is authorized to attest any related documents if so required.

SECTION 2. INCORPORATION OF RECITALS. The City Commission hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City Commission hereby incorporates such recitals as a part of this Resolution.

SECTION 3. SEVERABILITY. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and the City Commission hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 4. EFFECTIVE DATE. This Resolution shall become effective immediately after it is approved by the City Commission.

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PASSED AND APPROVED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS AT A REGULAR MEETING ON THE 7TH DAY OF NOVEMBER, 2023, AT WHICH MEETING A QUORUM WAS PRESENT.

Mayor, City of Brownsville, Texas

ATTEST:

City Secretary, City of Brownsville, Texas

(City Seal)

** ** ** ** **



PROCUREMENT SERVICES PROCUREMENT ANALYSIS

Date: Tuesday, October 31, 2023
To: Mr. John Cowen Jr., City Mayor
From: Mr. Lupe Granado III, Financial Services Director
CC: Mr. Damian Espinoza, Procurement and Contract Manager
Mr. Lupe Granado III, Financial Services Director

Subject: Agenda Item for the City Commission meeting of Tuesday, November 7, 2023 "Consideration and Action to Award Contract to UMB Bank for the Paying Agent Services for City of Brownsville, Texas"

Background:

At the request of Mr. Lupe Granado III, Financial Services Director, the Procurement Division requested to invoke the *Texas Local Government Code Chapter 252 Subchapter (B) Competitive Bidding or Competitive Proposals Required* for the procurement of: Paying Agent Services for City of Brownsville, Texas

Exemption language:

UMB Bank is exempt from competitive bidding process as the nature of their work is deemed to be professional.

Sec. 252.022. GENERAL EXEMPTIONS. (a) This chapter does not apply to an expenditure for: (4) a procurement for personal, professional, or planning services;

PROCUREMENT SUMMARY: UMB Bank is eligible under this procurement for Paying Agent Services for City of Brownsville, Texas in the amount listed on **(Exhibit A)**

New Agent/Registrar – UMB Bank

City of Brownsville PA/Escrow Agent REP Fee Summary					
Firm	Acceptance Fee	Paying Agent Fee (Annual - per deal)	Escrow Agent Fee (Annual - per account)	Bond Call / Redemption Processing (per series)	Filing Agent Fee (8038CP per Series)
Bank of New York	Waived	\$750.00	\$750.00	Did not provide	N/A
BOK	Waived	\$400.00	\$750.00	\$300.00	\$500.00
ComputuerShare	\$500.00	\$500.00	\$500.00	\$500.00	N/A
Regions	\$250.00	\$750.00	\$1,250.00	Did not provide	N/A
UMB	Waived	\$350.00	\$250.00	\$300.00	N/A
US Bank	Waived	\$400.00	Did not provide	\$300.00	N/A
Wilmington Trust	Waived	\$500.00	\$500.00	Did not provide	N/A



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Efren Trujillo, Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to approve **Resolution Number 2023-121**, the Cultural and Tourism Grant Fund Round 3 policy and COVID19 map (Grants & Community Development Department).

Summary:

The City of Brownsville received \$65.3 million in American Rescue Plan Act (ARPA) funding to combat the ongoing impacts of COVID-19 in the community. The City Commission authorized \$2,626,646.78 of the ARPA funds for the creation of a Cultural and Tourism Grant Fund (CTG) due to the economic impact of the COVID-19 pandemic in the cultural and tourism areas. In round one and two of the grant program awarded over 2.16 million to twelve organizations.

Currently, we have a balance of \$460,117.12 available for round 3. Commission feedback from a previous presentation on round 2, recommended the third round be aimed towards local small businesses and non-profits. After presenting to the Commission on October 17, we revised our policy to encompass all of Brownsville applicants, who did not receive grant assistance, to receive priority even if they do not fall within the Qualified Census Tract (QCT) or the COVID-19 map. We also adjusted the gross revenue from 3 million to 1.5 million to target smaller businesses/non-profits (items revised are outlined in red in the resolution).

***This item was tabled on October 17, 2023.**

Project Scope and Analysis:

Round three of CTG funding has been established as the Small Business and Non-Profit Grant Program and will assist businesses and non-profits with rent, mortgage, staff retention, supplies and marketing. The funding targets applicants located in low-income census tracts and in areas

with the highest rate of COVID-19 infection that were most likely to have experienced negative impacts from COVID-19. The proposed resolution, if approved, will designate the COVID-19 census tract map with a 14% or higher infection rate, qualified census tracts, and the grant policy. These designations will serve as qualifiers for the third round. Businesses and organizations applying for funding will be able to request a maximum amount of \$10,000. Organizations awarded in rounds one and two are ineligible to apply.

Funding:

Source: American Rescue Plan Act - Cultural and Tourism Grant Fund

Amount: 460,117.12

Local Contribution if Applicable: N/A

Recommendation:

City staff recommends approval of the Resolution considering any feedback and suggestions provided by the City Commission.

Commission Pillar:

Economic Development Pillar

Planning, Zoning, and Redevelopment Pillar

Attachments:

1. Resolution 2023-121

RESOLUTION 2023-121

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, APPROVING ALLOCATION OF AMERICAN RESCUE PLAN ACT FUNDING FOR THE IMPLEMENTATION OF A SMALL BUSINESS AND NONPROFIT GRANT PROGRAM AND TO DESIGNATE CENSUS TRACTS AND THE COVID-19 INFECTION RATE OF 14% OR HIGHER AS DISPROPORTIONALLY IMPACTED FOR THE CITY OF BROWNSVILLE

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter “ARPA”); and

WHEREAS, on May 10, 2021 the U.S. Treasury issued the Interim Final Rule and on January 6, 2022, issued the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, the City has been allocated \$65,194,854.00 in funds by the U.S. Department of the Treasury (“Treasury”) which are distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 (the date ARPA became law) until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, the City of Brownsville allocated \$2,623,646.78 ARPA funds to Cultural and Tourism Grant Funds (CTG) to assist nonprofit organizations; and

WHEREAS, the City of Brownsville has determined that it has the objective of providing these services to its small business owners and non-profits; and

WHEREAS, the City of Brownsville approves \$460,117.12 for issuance of grants to qualified small businesses and non-profits located within the City of Brownsville through Small Business and Non-Profit Grant Program for the period of (January 1, 2023 – September 30, 2026) – which will be funded in whole by federal award number SLFRP4165 awarded to the city of Brownsville by the U.S. Department of the Treasury; and

NOW, THEREFORE, BE IT RESOLVED that the City of Brownsville Commission approves CTG Round 3 policy and to designate census tracts with the COVID-19 infection rate of 14% or higher as disproportionately impacted for the City of Brownsville and as an eligibility requirement for the Small Business Grant Program (see attached exhibit).

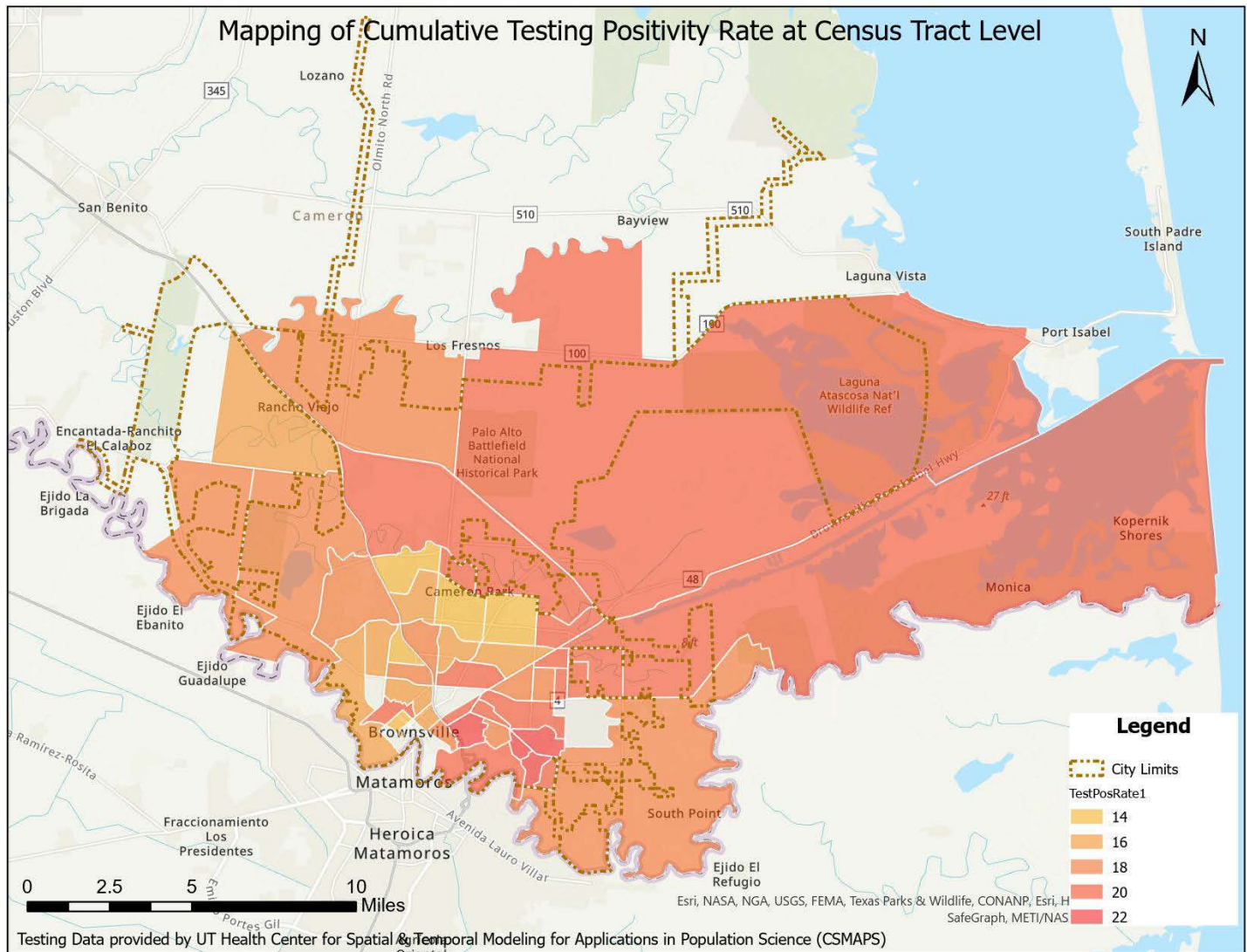
PASSED AND APPROVED by the City Commission of the City of Brownsville, Texas this _____ day of _____, 2023

City of Brownsville, Texas

Attest:

John Cowen Jr.
Mayor

Yolanda Galarza-Gomez
City Secretary





**Small Business and Non-
Profit Grant Program
American Rescue Plan
Program Policies and
Procedures Round Three**

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

PROJECT OVERVIEW

The City of Brownsville has received \$65.3 million in American Rescue Plan Act (ARPA) funding to combat the ongoing impacts of COVID-19 in the community. The City Commission authorized \$2,626,646.78 of the ARPA funds for the creation of a Cultural and Tourism Grant Fund (CTG) due to the economic impact of the COVID-19 pandemic in the cultural and tourism areas. Many non-profit arts and cultural organizations, and tourism-related organizations had to cease operations or had their operations severely diminished due to the mandated closures. As such, the City of Brownsville has elected to allocate up to \$2.62 million of its ARPA funding to help rebuild Brownsville, non-profit arts and cultural organizations, and organizations that attract tourism to the City of Brownsville. In round one of the grant program, \$1,297,000.00 was awarded to eight organizations. Round two of the program awarded \$866,529.66 to four organizations. The Cultural and Tourism Grant Fund has a remaining balance of \$460,117.12. The City of Brownsville recognizes that other for-profit small businesses and not-for-profit organizations in the city were impacted by COVID-19 in ways that were similar to the impacts on the culture and tourism area. As a recipient of the “American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds” (CSLFRF), the City of Brownsville has determined it is in the best interests of the community to use the remaining portion of this assistance to establish a small business grant initiative known as the City of Brownsville Small Business Grant Program. Under the CSLFRF, the City is permitted to direct federal recovery dollars to small for-profit businesses and not-for-profit businesses/organizations so that they may use the grant funds to recover from the impacts of the COVID-19 pandemic. The final rule presumes that an expanded set of households and communities are “impacted” or “disproportionately impacted” by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. This includes businesses and non-profits operating in low-income census tracts and allows the City to designate other disproportionately impacted areas. The City of Brownsville, via City Commissioners’ Resolution 2023-121, has approved an allocation of \$460,117.12 for the implementation of this program. Additionally, through resolution 2023-121 the city has designated areas that experienced Covid-19 infection rates above 14% as disproportionately impacted. The program will target businesses located in low-income census tracts and census tracts that had a high rate of COVID-19 infection during the pandemic. These businesses are considered disproportionately impacted by COVID-19 and thus eligible for assistance. For the purpose of this grant, the term small business will apply to both for profit businesses and not for profit organizations and 501c3 organizations within the City of Brownsville.

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

ABOUT THE CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

The Small Business Grant Program is geared to provide direct aid to small businesses in our community that are likely to have experienced hardship. The focus will be on applicants that have not received assistance from other relief programs. To best aid those most in need and provide for easier application, the application review process will prioritize for profit businesses and not for profit organizations located within (1) Qualified Low-Income Census Tracts (QCT) or (2) COVID-19 high infection zones within the City of Brownsville. Per the eligibility criteria listed below, small businesses/non-profits located in a low income or COVID-19 high infection rate census tract will not be required to provide documentation of economic losses and will receive a grant of up to \$10,000. Applicants outside of the QCT and COVID-19 High Infection Rate eligible areas may qualify for assistance up to \$10,000 by demonstrating economic losses.

Implementation of the Small Business Grant Program will be completed in partnership with GrantWorks Inc. GrantWorks was awarded a contract to provide ARPA Program Management services for the City of Brownsville. GrantWorks will provide an online application portal that will be accessible via mobile phone, tablet, or computer. This portal will allow for easy document uploads via traditional document upload methods or via photo capabilities of mobile devices. After the collection of application and eligibility documentation, GrantWorks will review applications, and request additional documentation as needed. GrantWorks will provide funding recommendations to the City of Brownsville for eligible applications. Grant funds will be delivered as a bank check or electronic funds transfer from the City of Brownsville, made payable to the person or entity identified on the business's TX registration.

The City of Brownsville Grants and Community Development Department (GCD) will promote the program on its website and through emails to various partners including Community Action Board participants, community centers, business organizations, community leaders, Chambers of Commerce, and the Downtown Manager. The GCD will host informational workshops and will arrange for virtual application portal training for community leaders and organizations interested in the training. Information sessions will be held at the Brownsville Public Library both in-person and virtually prior to the grant opening.

All funds appropriated for the Small Business and Non-Profit Grant Program must be expended by August 30, 2024; and any remaining funds will be re-obligated to another CSLFRF eligible City initiative before December 31, 2024. Per the federal guidelines, all CSLFRF funds must be expended by December 31, 2026.

¹ Qualified Census Tract - https://www.huduser.gov/portal/sadda/sadda_qct.html

² City of Brownsville High Infection Zones - [Brownsville Census Tract COVID- Test Positivity Rate \(arcgis.com\)](https://arcgis.com)

CITY OF BROWNSVILLE SMALL BUSINESS/Non-PROFIT GRANT PROGRAM

ELIGIBILITY CRITERIA

Info Category	Group 1 – <u>Business or nonprofit located within a QCT or High Infection Rate area that have not received COVID-19 specific business grant assistance from the federal, state or local government entity.</u>	<u>Group 2 – Businesses and nonprofits within the City of Brownsville that are outside of the QCT or High Infection Rate areas and have not received COVID-19 specific business grant assistance from the federal, state, or local government.</u>	Group 3 – <u>Business or non-profits located within a QCT or High Infection Rate area that previously received COVID-19 specific business grant assistance from the federal, state or local government entity.</u>
Prioritization	Applications will be categorized upon submission and processed in the order received within their respective category group. Group 1 applications will be prioritized ahead of Group 2 and Group 3 applications. Applications falling under Category Group 3 will only be processed if there are no applications pending review from Category Group 1 or Group 2. Incomplete applications will be returned to applicants with detailed instructions for completion. Upon receiving notice of incompleteness, applicants will have 10 days from the date of the notice to provide necessary documentation. If an applicant fails to provide the necessary documentation within 10	Applications will be categorized upon submission and processed in the order received within their respective category group. Group 2 applications will be processed when there are no pending applications for group 1. Incomplete applications will be returned to applicants with detailed instructions for completion. Upon receiving notice of incompleteness, applicants will have 10 days from the date of the notice to provide necessary documentation. If an applicant fails to provide the necessary documentation within 10	Group 3 applications will only be processed if there are no applications pending review from Group 1 or Group 2. Incomplete applications will be returned to applicants with detailed instructions for completion. Upon receiving notice of incompleteness, applicants will have 10 days from the date of the notice to provide necessary documentation. If an applicant fails to provide the necessary documentation within 10 days, their application will be rejected.

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

	days, their application will be rejected.		
General	Contact Information of Business Owner Full Name Email Phone	Contact Information of Business Owner Full Name Email Phone	Contact Information of Business Owner Full Name Email Phone
Business Eligibility ¹	Business Name (as registered) with: Texas Secretary of the state or As filed on US Income Tax Return Date of formation prior to 3/1/2019 Business physical location/address within Brownsville City Limits Copy of income tax or 990 return for 2021 demonstrating less than \$1.5 m in gross revenue (Less than \$3m in restaurant operations) Employee Roster showing 50 or fewer employees, part time equates to ½ full time employees. Debarment and exclusion check demonstrating business is not excluded from participating in federal programs.	Business Name (as registered) with: Texas Secretary of the state or As filed on US Income Tax Return Date of formation prior to 3/1/2019 Business physical location/address within Brownsville City Limits Copy of income tax or 990 return for 2021 demonstrating less than \$1.5m in gross revenue (Less than \$3 m in restaurant operations) Employee Roster showing 50 or fewer employees, part time equates to ½ full time employees. Documentation of Covid-19 assistance previously received. Debarment and exclusion check demonstrating business is not excluded from participating in federal programs.	Business Name (as registered) with: Texas Secretary of the state or As filed on US Income Tax Return Date of formation prior to 3/1/2019 Business physical location/address within Brownsville City Limits Copy of income tax or 990 return for 2021 demonstrating less than \$3 m in gross revenue (Less than \$ 5m in restaurant operations) Employee Roster showing 50 or fewer employees, part time equates to ½ full time employees. Documentation of Covid-19 assistance previously received Debarment and exclusion check demonstrating business is not excluded from participating in federal programs.
Demonstrated Economic Loss	No documented loss needed	Provide audits, Profit/Loss statement or	No documented loss needed

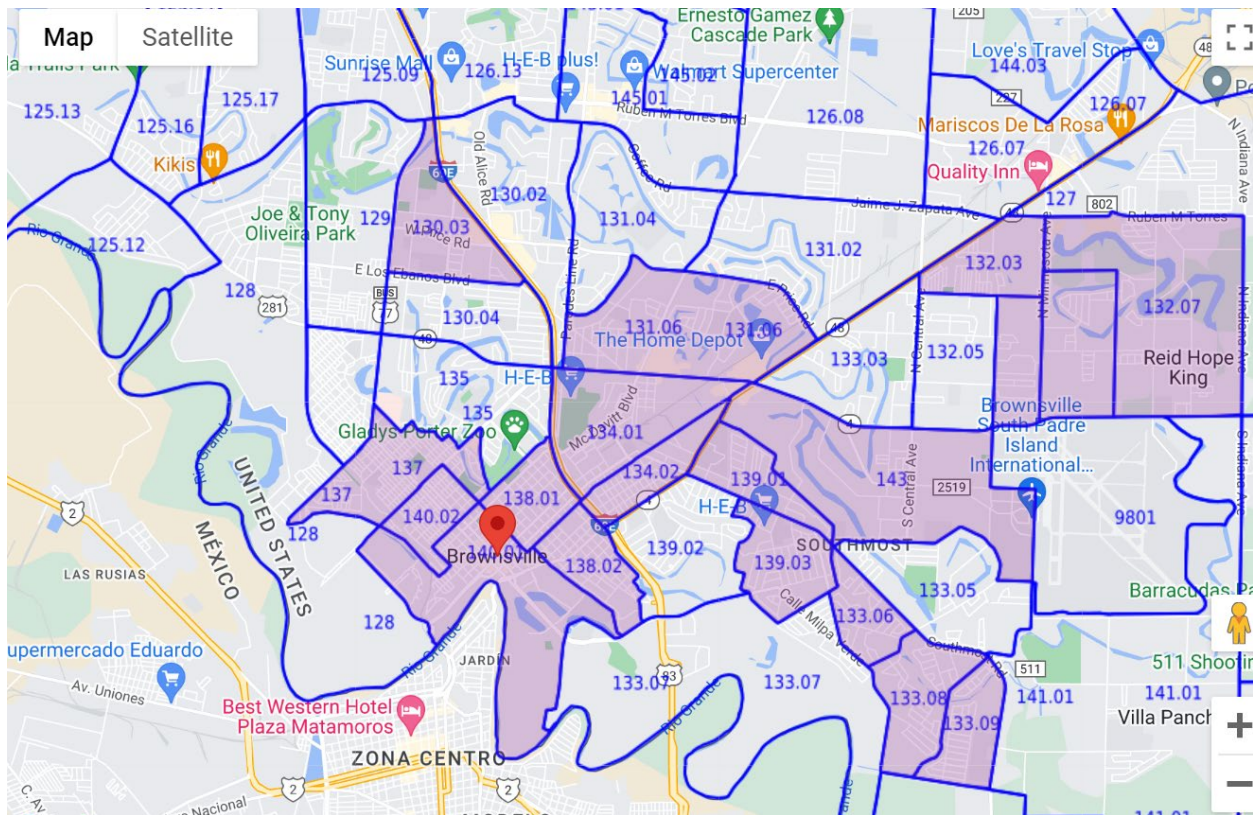
CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

		tax returns or other documentation to show a documented loss and/or increase in expenses related to COVID-19 between the years 2019, 2020 and 2021. Losses may include loss of anticipated fund raisers and decreased donations for non-profit organizations. Award will be 100% of documented loss up to \$10,000.	
Preferences	Preference will be given to those businesses that have not received COVID-19 specific business grant assistance from the federal, state or local government entity.		
Ineligible	Businesses and non-profits in group 1 and 2 with more than \$1,500,000 in gross revenue (More than \$3,500,000 in restaurant operations), <u>Businesses and nonprofits in group 3 with more than \$3,000,000 in gross revenue (More than \$5,000,000 in restaurant operations) Businesses or nonprofits with more than 50 employees.</u> National franchises, K through 12 educational institutions, local government, adult video and novelty stores, gambling, sweepstakes, residential property owners/lessors, membership-only organizations, and social clubs, entities that are not open to the general public, and multi-family units are ineligible.		

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

Qualified Census Tracts MAP:

2023 Qualified Census Tract (QTC): https://www.huduser.gov/portal/sadda/sadda_qct.html

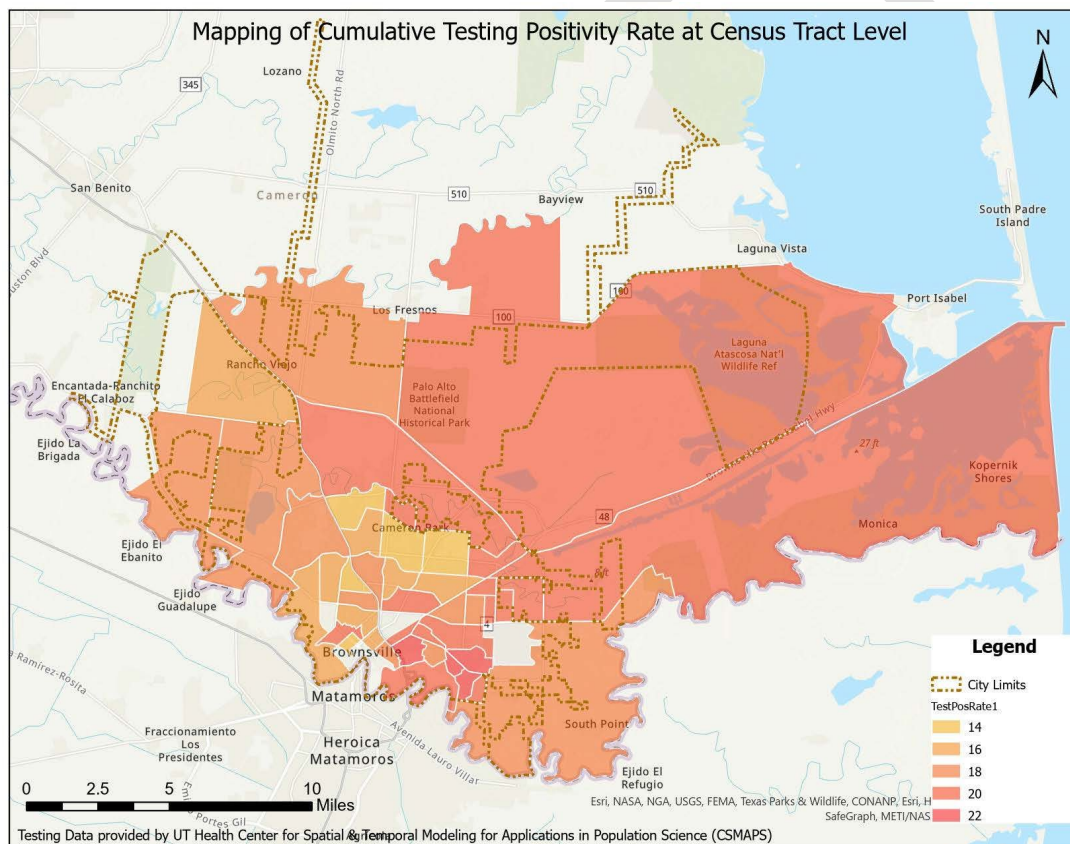


QTC 2023					
Census Tracts	137.00	138.01	139.03	132.04	133.09
	140.02	134.01	133.06	132.06	130.03
	140.01	134.02	131.06	132.07	143.00
	138.02	139.01	132.03	133.08	

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

COVID-19 High Infection Rate Zones:

The City of Brownsville Health Department identified significant impact at infection rates of 14% or higher as a disproportionately high rate of COVID-19 infection. The City Commission recognized and declared areas of the City with infection rates at or above 14% to be disproportionately impacted by COVID-19, thus businesses in these areas are deemed to have suffered negative economic impacts and are eligible for grant assistance. The following census tracts had infection rates of 14% or greater (see table below). While the country experienced business closures at a national level, the high rate of infection in the City of Brownsville meant that many businesses experienced heightened negative outcomes such as longer closures, concerns of proper socially distancing for employees and customers, lack of personal protective equipment (PPE), and resources to transition businesses to offer curbside or contactless services.



COVID-19

High Infection Rate Zones (Map):

COVID-19 High Infection Rate Zones							
Census Tracts	0132.05	0133.05	0133.09	0136.00	0139.01	0140.02	0144.00
	0132.06	0133.06	0134.01	0137.00	0139.02	0141.00	0145.00
	0132.07	0133.07	0134.02	0138.01	0139.03	0142.00	
	0133.03	0133.08	0135.00	0138.02	0140.01	0143.00	

CITY OF BROWNSVILLE SMALL BUSINESS/Non-PROFIT GRANT PROGRAM

ESTIMATED BUDGET

It is the program's intent that all \$460,117.12 allocated to this program be dedicated to small businesses and non-profit organizations in Group 1, Group 2 and Group 3 as outlined in the eligibility criteria table above to the extent that there are eligible applications from these groups. The administrative needs of the program are addressed under separate ARPA budget line items.

ALLOWABLE USE OF GRANT FUNDS:

Each awarded applicant shall enter into an agreement outlining the terms of the award. The beneficiary agreement for each beneficiary shall comply with the following:

1. Funds may be used for any operational expense that the recipient deems to be necessary due to the COVID-19 pandemic for restart or continuation of the organization's activity, administration, or safely operated venue.
2. Beneficiaries must submit reports as identified in the beneficiary agreement.

APPLICATION INSTRUCTIONS.

Applicants will apply through the GrantWorks 20/20 application portal.

Approval Process:

GrantWorks Inc. will review applications with the Grants and Community Development Department staff and will make eligibility determinations based on the program eligibility criteria.

Policies and procedures are subject to change as the City of Brownsville responds to federal requirements, policy improvements and community needs.

DOCUMENT RETENTION POLICY

This policy section is intended to provide the general protocols, guidance and framework for the files, records, and reports used and stored by the City of Brownsville (and their ARPA representatives) for the purposes of carrying out the ARPA funded programs during the contractual period of performance and throughout the ARPA required retention period.

It is the policy of the City of Brownsville to follow Treasury's record retention requirements as it expense funds pursuant to the ARPA/SLFRF award. Accordingly, the City of Brownsville agrees to:

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

- Retain all financial and programmatic records related to the use and expenditure of SLFRF pursuant to the ARP/SLFRF award for a period of five (5) years after all SLFRF funds have been expended or returned to Treasury, whichever is later.
- Ensure that the financial and programmatic records retain sufficient evidence compliance with section 603(c) of the Social Security Act “ARPA,” Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right to timely and unrestricted access to any records for the purpose of audits or other investigations.
- If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

Disposition of Document Records & Storage: The City of Brownsville’s records must/will be stored in a safe, secure, and accessible manner. The GrantWorks GW20/20 Portal will maintain reliability to ensure records are accurate and available, preserve authenticity to protect against unauthorized access, and provide usability to staff so that records can be easily found and updated. Information shall be transferred to the City of Brownsville and designated ARPA project managers at key points throughout the project.

The City of Brownsville will carry out this plan in its entirety with a preference for digitally stored data, password protection and limited building/file access. All projects that involve personally identifiable information (PII) or any data deemed as sensitive or confidential in nature, shall be managed appropriately. PII Data is in reference to but not limited to individual/applicant name, address, driver’s license number, income level, or other personal information for determining identity and/or project eligibility. The *Personally Identifiable Information (PII) Plan (below)* addresses specific steps to ensure potential PII data is handled and maintained in a secure and confidential manner. The City of Brownsville (and their representatives) agrees to comply with all local, state, and federal regulations regarding handling, release, or disclosure of such information.

Reporting Policy Violations: The City of Brownsville is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee’s supervisor. If an employee is not comfortable bringing the matter up with the supervisor, the employee may bring the matter to the attention of Efren Trujillo., Director of Grants and Community Development email efren.trujillo@brownsvilletx.gov. The City of Brownsville prohibits any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

Questions About the Policy: Any questions about this policy should be referred to Olga Moya, City of Brownsville Grant Manager email olga.moya@brownsvilletx.gov who oversees

CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

administering, enforcing, and updating this policy. All revised policies should be clearly tracked and shared, and contingent on the nature of revisions, may also require additional approval.

Project Closeout: The City of Brownsville (and its representatives) will identify and collect applicable records for each project carried out with ARPA funding. The City of Brownsville will work with the designated ARPA Project Manager to ensure all records are transferred in a secure, efficient, and timely manner. The City of Brownsville will continue to update and improve upon this Document Management and Record Retention Policy as additional best practices are identified or should Treasure SLFRF provide new relevant information related to record keeping.

CONFLICT OF INTEREST POLICY

In compliance with the Texas Local Government Code 171, City of Brownsville officials are not involved in the selection and determination of eligibility for applicants to the Small Business Grant Program.

In accordance with the City of Brownsville's Code of Ordinances, Chapter 38 Article I Sec, 38-31; to avoid the appearance and risk of impropriety, a city official or employee shall not take an official action that he or she knows is likely to affect the economic interest of the employee either directly or indirectly.

Any business entity, affiliated business, or partner of a business entity in which a substantial economic interest is held by an employee with direct oversight of the program or official of the City of Brownsville, his or her parent, child, spouse, domestic partner, or other family member within the first degree of consanguinity or affinity may not apply for this program. Application submittal and eligibility review will be done through the contracted services of GrantWorks via their GW 20/20 Application Portal. No City of Brownsville employee may advocate on behalf of or encourage a deviation from the set eligibility criteria on behalf of any small businesses or group of small businesses after the launch of the program and start of any application cycle(s).

PERSONALLY IDENTIFIABLE INFORMATION (PII) PLAN

Introduction:

The City of Brownsville has received Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) from the U.S. Department of Treasury for covered costs and eligible expenses per the SLFRF Final Rule, and ARPA Sections 602(b) and 603(b) of the Social Security Act as added by section 9901 of the American Rescue Plan Act. These funds may be used to make awards to small business beneficiaries. Some personally identifiable information (PII) may be collected from applicants in order to determine eligibility or make payment on an award. This Personally

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Identifiable Information (PII) Policy provides guidance on determined collection needs, collect and store this sensitive information responsibly, respectfully and in compliance with the U.S. Privacy Act of 1974.

Use and collection of PII will be minimized as much as possible; and will be limited only to what is needed to ascertain the business' registration, assess eligibility, and award funds. Certain application information may need to be collected such as name, contact information and business income and employee documentation. Information not explicitly needed (such as an owner's SSN or bank account numbers associated with income returns) should be redacted prior to filing (either electronically or physically).

Definition of PII:

PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Set forth below is a non-exclusive list of information that may constitute PII on its own or in combination with other information¹:

- Age
- Alias
- Audio recordings
- Biometric identifiers (e.g., fingerprints, iris image)
- Certificates (e.g., birth, death, marriage)
- Credit card number
- Criminal records information
- Date of birth
- Device identifiers (e.g., mobile devices)
- Drivers' License / State ID Number
- Education Records
- Email address
- Employee identification number
- Employment status, history, or information (e.g., title, position)
- Fax number
- Financial information
- Foreign activities
- Full name
- Gender
- Geolocation information
- Home address
- Internet cookies containing PII
- Investigation report or database
- IP / MAC address
- Legal documents or records
- Marital status
- Military status or other information
- Mother's maiden name
- Passport information
- Phone numbers
- Photographic identifiers
- Place of birth
- Protected health information
- Race/ethnicity
- Religion
- Salary
- Sex
- Social security number (SSN)
- Taxpayer ID
- User ID
- Vehicle identifiers
- Web uniform resource locators
- Work address or other business contact information. (HUD does not engage with individuals in an entrepreneurial capacity, but business contact information may still constitute PII because it identifies individuals.)

Responsibility & Handling:

All City of Brownsville and GrantWorks employees handling PII must comply with PII requirements as outlined in this document.

¹ Definition from National Institute of Standards and Technology (NIST) Special Publication (SP) 800-122, "Guide to Protecting the Confidentiality of Personally Identifiable Information (PII)," and the "2021 HUD PII Handbook"

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- Application documentation will be uploaded directly to the Small Business Grant Program portal. The Portal is hosted by GrantWorks via the proprietary GW 20/20 project management system. This system is separated by password protected access per federal grant program and the City of Brownsville Application Portal being created for this specific program is only accessible by assigned GrantWorks IT staff, program managers and select City of Brownsville employees.
- The documents uploaded by applicants are stored on a separate SharePoint site accessible only by invitation and password to designated GrantWorks and City of Brownsville employees. It is not accessible to uninvolved GrantWorks employees, applicants (after submittal, except as indicated below), the general public or all City of Brownsville employees.
- No paper applications or documentation are anticipated to be collected.
- Documentation for this program will be stored with GrantWorks for five (5) years after all ARPA allocation of funds to the City of Brownsville have been expended or returned to Treasury, per the CLFRF/ARPA Terms & Conditions.

Transparency / Notification:

The City of Brownsville will be transparent about the use, storage and destruction of PII collected for the program. PII shall only be stored for long enough to complete analysis and then an alternative reference code (Alpha-Numeric identifier) used when referring to the beneficiary. At any time, an applicant providing PII data will be able to review these policies and procedures related to the data collection.

Specific to the City of Brownsville Small Business Grant Program portal, upon collection of PII – the applicant providing the data will review and confirm receipt of the use of PII being requested and their specific purpose for being collected. A notification of this PII policy (and downloadable copy of the PII policy) will be provided at the beginning of the application process in the Portal.

Disclosure Request:

Applicants shall have access to their application and all information provided through the application portal and may access their information by logging in to the portal.

Privacy Act Exceptions to Conditions of Disclosure:

The City of Brownsville shall not provide an individual's PII without prior written consent, unless the disclosure is due to statutory exceptions as listed in The Privacy Act and exceptions for information that may be disclosed under the Texas Public Information Act.

PROGRAM APPLICATION / DATA POINTS TO BE COLLECTED

Info Category	
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CITY OF BROWNSVILLE SMALL BUSINESS/NON-PROFIT GRANT PROGRAM

General	Contact Information of Business Owner ● Business Name (as registered) with: ○ State of Texas (Secretary of State) ● Name ● Email ● Phone
Business Eligibility	● Date of registration ● Business physical location/address ● Employee Payroll Roster ● Business tax return for 2019 ● Debarment and exclusion check demonstrating business is not excluded from participating in federal programs.
Demonstrated Economic Loss	● Audits, ● Profit/Loss statement ● Tax returns ● Other documentation to show a documented loss and/or increase in expenses related to COVID-19 between the years 2019, 2020 and 2021.



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Will Trevino, First Assistant City Attorney
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** to acknowledge the Letter of Notification to Commissioner Roy De los Santos in response to Ethics Advisory Commission Recommendation in Decision EAC#2022-09-02 (Office of the City Attorney).

Summary:

On March 23, 2023, the City of Brownsville Ethics Advisory Commission ("Ethics Commission") held an evidentiary hearing on a sworn complaint filed against Commissioner Roy De los Santos alleging violations of the City of Brownsville Code of Ethics. The Preliminary Panel of the Ethics Commission construed the sworn complaint to allege violations of the City of Brownsville Code of Ordinances (hereafter the "Ethics Code") §§ 38-31(a), 38-35(a) and (b), 38-36.

After considering the evidence presented and the testimony of the witnesses, pursuant to Ethics Code §38-192 (b), the Ethics Commission found clear and convincing evidence that Commissioner De los Santos participated in the drafting of a "Memorandum of Understanding" between the City of Brownsville and a third party while he simultaneously held the office of City Commissioner.

Pursuant to §§38-194(a)(4) and (b)(1), the Ethics Commission recommended that the City Commission issue Commissioner De los Santos a "Letter of Notification". Chairman David Willis issued a decision letter on July 7, 2023 advising the City Commission of the recommendation.

A letter of notification is recommended when the Ethics Commission finds that a violation of the Ethics Code was clearly unintentional or when the action or conduct found to have been a violation of the Ethics Code was performed by the official or employee in reliance on a public written opinion of the city attorney. A letter of notification must advise the official or employee to whom the letter is directed of any steps to be taken to avoid future violations.

On October 17, 2023, the City Commission voted 5-2 to issue such a letter of notification to Commissioner De los Santos.

This agenda item simply requests that the City Commission acknowledge the issuance of the letter of notification to Commissioner De los Santos.

Project Scope and Analysis:

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

The City Attorney recommends acknowledging the letter of notification.

Commission Pillar:

Governance

Attachments:

None



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Joel Garza, Mobility Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION** on **Resolution Number 2023-127** to appoint, reappoint, and/or remove member(s) to the Capital Improvement Advisory Committee (CIAC). (Multimodal Transportation Department)

Summary:

A developer member has retired from CIAC. A new member, who is also a developer, needs appointment to CIAC due to the requirement that "no less than 40 percent of the membership of CIAC must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or government entity". Commissioner District 4 (Commissioner Cardenas) will need to choose a new member to the committee.

Project Scope and Analysis:

The CIAC serves in an advisory capacity, and shall have only the authority granted to it by those provisions of state law or city ordinance which mention the CIAC by name. The CIAC is to:

1. Advise and assist the city government in adopting land use assumptions;
 2. Review the capital improvements plan and file written comments;
 3. Monitor and evaluate the implementation of the capital improvement plan;
 4. Submit reports in March and September of each year with respect to progress of the capital improvement plan and report to the city government any perceived inequities in implementing the plan or imposing the impact fees; and
 5. Advise the city government of the need to update or revise the land use assumptions, capital improvement plan, and impact fee.
- Consists of seven (7) appointed citizens.
 - Not less than 40 percent of the membership of the CIAC must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or government entity.
 - Real Estate, Development, or Building Industries- 3 members
 - ETJ Representative- 1 member

Funding:

Source: NA

Amount: 00.00

Local Contribution if Applicable: 0.00

Recommendation:

Multimodal staff recommends Commissioner Cardenas to chose a developer to assist in the duties of the Capital Improvement Advisory Committee.

Commission Pillar:

Economic development, Infrastructure, Government Pillar.

Attachments:

1. Resolution 2023-127
2. CIAC- Board

**A RESOLUTION OF THE CITY OF BROWNSVILLE APPOINTING MEMBERS TO
THE CAPITAL IMPROVEMENT ADVISORY COMMITTEE**

WHEREAS, the Capital Improvement Advisory Committee, (CIAC), is under Chapter 395 of the Texas Local Government Code (particularly Sections .058, .056, and .0575(c)) and Chapter 314 of the City Code (per Ordinance Number 2006-1100.39 enacted on 8-8-06) and was amended by Ordinance 2007-110.44 on October 30, 2007.

WHEREAS, the Capital Improvement Advisory Committee (CIAC), serves in an advisory capacity and shall have only the authority granted to it by those provisions of state law or city ordinance which mention the CIAC by name. The CIAC is to:

- A. Advise and assist the city government in adopting land use assumptions;
- B. Review the capital improvements plan and file written comments;
- C. Monitor and evaluate implementation of the capital improvements plan;
- D. Submit reports in March and September of each year with respect to the progress of the capital improvements plan and report to the city government any perceived inequities in implementing the plan or imposing the impact fee; and
- E. Advise the city government of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

WHEREAS, each Board member shall be appointed by the City Commission, and shall serve an Indefinite term, and shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, the following individuals are appointed or re-appointed to serve an expired or un-expired term on the Capital Improvement Advisory Committee (CIAC).

<u>NAME</u>	<u>EXPIRED/UN-EXPIRED</u>	<u>TERM ENDING</u>
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PASSED and APPROVED on this _____ day of November 2023.

City of Brownsville

John Cowen, Jr.
Mayor

ATTEST:

Yolanda Galarza-Gomez
City Secretary



Ordinance Number: 2022-079	Board Name: Capital Improvement Advisory Committee	Meeting Date: As needed
Composition: 7 Regular Members	Term of Office: Indefinite	

Present Board Members (List in District Order)	Residing District	Term	Appointed	Expires	Eligible for Re-Appt (Y/N)	Willing to Serve (Y/N) Or Resigned?	Appointed by/Appointment to be made by	TOMA/PIR certified?	Serving on Other City Boards Or Other Qualification(s)/ Notes
Craig Grove		1st	12/6/2022	Indefinite	N/A	N/A	Mayor (At-Large)	N/A	N/A
Rick Canales	3	1 st	7/19/2022	Indefinite	N/A	N/A	Commissioner At-Large "A"	N/A	N/A
Juan Pequeño	3	1 st	5/17/2022	Indefinite	N/A	N/A	Commissioner At-Large "B"	N/A	N/A
Mariana Chavez	3	1 st	7/19/2022	Indefinite	N/A	N/A	Commissioner District 1	N/A	N/A
Edward Saldivar	2	1 st	9/20/2022	Indefinite	N/A	N/A	Commissioner District 2	N/A	N/A
Victor Alvarez	3	1 st	7/19/2022	Indefinite	N/A	N/A	Commissioner District 3	N/A	N/A
Vacant				Indefinite	N/A	N/A	Commissioner District 4	N/A	N/A

APPLICATIONS ON FILE - PROSPECTIVE BOARD MEMBERS -

Applicants (List in District Order)	Residing District	Serving on Other City Boards Or Other Qualification(s)/ Notes	Eligible for Re-Appt (Y/N)	Willing to be re-appointed?	Areas of Interest
N/A		N/A	N/A	N/A	
N/A		N/A	N/A	N/A	



To: Mayor and City Commission
Through: Helen Ramirez, City Manager
From: Joel Garza, Mobility Director
Date: Tuesday, November 7, 2023
Agenda #: Consideration and **ACTION**, if any, to approve **Resolution Number 2023-104B** to appoint, reappoint, and/or remove member(s) of the Transit Advisory Committee. (Multimodal Transportation Department)

Summary:

Staff requests the Commission to appoint, reappoint, and/or remove member(s) of the Transit Advisory Committee

Project Scope and Analysis:

Funding:

Source: Not Applicable

Amount:

Local Contribution if Applicable:

Recommendation:

Staff recommends appointments and/or re-appointments

Commission Pillar:

Quality of Life

Attachments:

1. TAC Resolution 2023-104B
2. Board Template 11.7.23

RESOLUTION NUMBER 2023-104B

**A RESOLUTION OF THE CITY OF BROWNSVILLE
APPOINTING MEMBERS TO THE TRANSIT ADVISORY
COMMITTEE.**

WHEREAS, The Transit Advisory Committee was created in 1991 and amended by the By Laws accepted January 10, 2003, and further amended by Resolution Number 2006-039 on June 06, 2006; and

WHEREAS, the Transit Advisory Committee shall monitor the performance of Brownsville Metro quality statistical reports, reviews requested and proposed service, policy and procedure changes to assure that user and institutional needs have been addressed;

To provide advice and guidance to the Brownsville City Commission through staff on the development, implementation and operation of the Paratransit and Fixed Route Services consistent with all State and Federal Rules and Regulations, and to further:

1. Monitor the performance of Brownsville Metro quality statistical reports.
2. Monitor users through a statistical report of service productions for Paratransit and Fixed Route operations in order to determine deterioration due to use or abuse.
3. Review requested and proposed service, policy and procedure changes to assure that user and institutional needs have been addressed.
4. Review individual complaints, incidents and/or suggestions as needed to determine applicability to policies and procedures.
5. Provide support to staff on enforcing policies, procedures and practices; and

WHEREAS, the Transit Advisory Committee is composed of seven (7) members, four (4) members shall be reappointed and one (1) member shall be appointed by the City Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF BROWNSVILLE, TEXAS, that the following individuals are appointed or re-appointed to serve an expired or un-expired term on the Transit Advisory Committee.

<u>NAME</u>	<u>EXPIRED/UN-EXPIRED</u>	<u>TERM ENDING</u>
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PASSED and APPROVED on this 7th day of Novemeber 2023.

City of Brownsville

John Cowen, Jr.
Mayor

ATTEST:

Yolanda Galarza
City Secretary



Ordinance Number: By-Laws were adopted on: September 5, 2023 Resolution No. 2023-113			Board Name: TRANSIT ADVISORY COMMITTEE (TAC)			Meeting Date: 3 rd Wednesday of the Month
Composition: 7 members			Term of Office: Two (2) years			

Present Board Members (List in District Order)	Residing District	Term	Appointed	Expires	Eligible for Re-Appt (Y/N)	Willing to Serve (Y/N) Or Resigned?	Appointed by/Appointment to be made by	TOMA/PIR certified?	Serving on Other City Boards Or Other Qualification(s)/ Notes
Sandra Gomez	1	4th	10/17/2023	10/17/2025	N		Mayor (At-Large)		
Graham Sevier	4	1st	9/19/23	9/19/25	N		Commissioner At-Large "A"		
Vacant							Commissioner At-Large "B"		
Gregorio Rincones	1	1 st	6/16/20	5/16/24	N		Commissioner District 1		
Jose S. Martinez	2	1 st	9/19/23	9/19/25	N		Commissioner District 2		
Martha Galvan	3	1 st	10/17/2023	10/17/2025	N		Commissioner District 3		
Christina Villarreal	1	1 st	10/17/2023	10/17/2025	N		Commissioner District 4		

APPLICATIONS ON FILE - PROSPECTIVE BOARD MEMBERS -

Applicants (List in District Order)	Residing District	Serving on Other City Boards Or Other Qualification(s)/ Notes	Eligible for Re-Appt (Y/N)	Willing to be re-appointed?	Areas of Interest
Viola Currier	1	no	Y	Y	