

# City of Kingsville, Texas

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## AGENDA CITY COMMISSION MONDAY, JANUARY 13, 2020 REGULAR MEETING

CITY HALL  
HELEN KLEBERG GROVES COMMUNITY ROOM  
400 WEST KING AVENUE  
5:00 P.M.

### I. Preliminary Proceedings.

#### OPEN MEETING

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

#### MINUTES OF PREVIOUS MEETING(S)

Regular Meeting- December 17, 2019

APPROVED BY:

Mark McLaughlin by 10  
Mark McLaughlin  
City Manager

### II. Public Hearing - (Required by Law).<sup>1</sup>

1. None.

### III. Reports from Commission & Staff.<sup>2</sup>

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to, the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Condemnation Update, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports, Utilities Billing Update; Police & Fire Department – Grant Update, Police & Fire Reports; Streets Update; Public Works; Landfill Update, Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Emergency Management, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Health Department, Hotel Occupancy Report, Quiet Zone, SEP, Legislative Update, Proclamations, Employee Recognition, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Wastewater Treatment Plant, Water And Wastewater Rate Study Presentation, Golf Course, Library Summer Programs, Grants Update. No formal action can be taken on these items at this time."*

### IV. Public Comment on Agenda Items.<sup>3</sup>

1. Comments on all agenda and non-agenda items.

V.

**Consent Agenda**

**Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

**CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

1. Motion to reappoint Norma Sue Adrian to the City-County Health Board for a three-year term. (Health Director).
2. Motion to approve a resolution authorizing the City of Kingsville to continue participation in the Texas Main Street Program, authorizing the Mayor to execute the Texas Main Street Locally Designated Program 2020 contract, and designating Downtown Manager Cynthia Martin as the Main Street Program Manager for the City of Kingsville to coordinate program activities. (Downtown Manager).

**REGULAR AGENDA**

**CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

VI. **Items for consideration by Commissioners.<sup>4</sup>**

3. Consider a resolution of the City of Kingsville authorizing the Parks Department to sponsor the Youth Baseball/Softball League. (Parks Director).
4. Consider introduction of an ordinance amending the Fiscal Year 2019-2020 budget to setup the budget for the new Parks division for Youth Baseball and Softball League to be run by the City of Kingsville. (Parks Director).
5. Consider authorizing the purchase of an articulated dump truck for the Landfill from John Deere Inc., via BuyBoard as per staff recommendation, and a resolution authorizing the City Manager to enter into a Governmental Finance Contract (No. 8949) between Government Capital Corporation and the City of Kingsville for an articulated dump truck. (Purchasing Manager).
6. Consider authorizing the purchase of five outfitted vehicles for the Police Department from Lake Country Chevrolet, via Goodbuy Purchasing Cooperative as per staff recommendation, and a resolution authorizing the City Manager to enter into a Governmental Finance Contract (No. 8950) between Government Capital Corporation and the City of Kingsville for police vehicles. (Purchasing Manager).
7. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Section 15-6-21-Definitions to include a definition for "climate-controlled self-storage". (Interim Director of Planning & Development Services).
8. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 6- Zoning, Appendix A-Land Use Categories to add

- "climate-controlled self-storage". (Interim Director of Planning & Development Services).
9. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 75, 76, 302, & 303, adopting the 2018 versions of the International Residential Code for One-and-Two Family Dwellings, the Mechanical Code, the Fuel Gas Code, and the Plumbing Code. (Interim Director of Planning & Development Services).
  10. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 36, 37, 40, & 43, adopting the 2018 version of the International Fuel Gas Code. (Interim Director of Planning & Development Services).
  11. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 135 & 136, adopting the 2018 version of the International Mechanical Code. (Interim Director of Planning & Development Services).
  12. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 21 & 22, adopting the 2018 version of the International Plumbing Code. (Interim Director of Planning & Development Services).
  13. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 402 & 403, adopting the 2018 version of the International Energy Conservation Code. (Interim Director of Planning & Development Services).
  14. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 151 & 152, adopting the 2018 version of the International Swimming Pool and Spa Code. (Interim Director of Planning & Development Services).
  15. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Section 15-1-156, adopting the 2017 Edition of the National Electric Code. (Interim Director of Planning & Development Services).
  16. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, Sections 1 through 99, adopting the 2018 version of the International Property Maintenance Code. (Interim Director of Planning & Development Services).
  17. Discuss and consider authorizing preparation of charter amendment proposals from the Charter Review Committee. (City Attorney).
  18. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter VII, Article 6, Traffic Control Devices, providing for a University Residential Parking District. (City Attorney).
  19. Executive Session: Pursuant to Section 551.072, Texas Government Code, Deliberations regarding Real Property Exception, the City Commission shall convene in Executive Session to discuss the purchase, exchange, lease, or value of real property as deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. (City Engineer).
  20. Consider a resolution authorizing the Mayor to execute a Quit Claim Deed with the Texas Department of Transportation for three utility easements needed for

improvements to US77 From General Cavazos to the southern city limits. (City Engineer).

21. Consider a resolution authorizing the Mayor to enter into a Standard Utility Agreement with the Texas Department of Transportation for reimbursement of part of the City's cost to relocate and adjust utilities due to improvements along US77. (City Engineer).

## VII. Adjournment.

1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action. No public comment at this point.

### NOTICE

This City of Kingsville and Community Room are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail [mvalenzuela@cityofkingsville.com](mailto:mvalenzuela@cityofkingsville.com) for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 (Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551-076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board located at City Hall, 400 West King Ave, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

January 10, 2020 at 10:00 A.M. and remained so posted continuously for at least 72 hours preceding the schedule time of said meeting.

Mary Valenzuela  
Mary Valenzuela, TRMC, CMC, City Secretary  
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: \_\_\_\_\_

By: \_\_\_\_\_  
City Secretary's Office  
City of Kingsville, Texas

# **MINUTES OF PREVIOUS MEETING(S)**

DECEMBER 17, 2019

A SPECIAL MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, DECEMBER 17, 2019 IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.

**CITY COMMISSION PRESENT:**

Sam R. Fugate, Mayor  
Edna Lopez, Commissioner  
Hector Hinojosa, Commissioner  
Dianne Leubert, Commissioner  
Arturo Pecos, Commissioner (Arrives at 5:01 p.m.)

**CITY STAFF PRESENT:**

Mark McLaughlin, City Manager  
Mary Valenzuela, City Secretary  
Kyle Benson, IT Manager  
Deborah Balli, Finance Director  
Emilio Garcia, Health Director  
Bill Donnell, Public Works Director  
Cynthia Martin, Downtown Manager  
Rudy Mora, City Engineer  
Charlie Sosa, Purchasing Director  
Courtney Alvarez, City Attorney  
Adrian Garcia, Fire Chief  
Ron Lee, Fire Marshall  
Joe Casillas, Water Production Supervisor  
Diana Gonzales, HR Director  
David Solis, Risk Manager  
Janine Reyes, Tourism Director  
Jennifer Bernal, Parks Manager

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate opened the meeting at 5:00 p.m. with all four Commission members present. Pecos arriving at 5:01 p.m.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Mrs. Courtney Alvarez, City Attorney, followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S)**

Regular Meeting- December 9, 2019

**Motion made by Commissioner Lopez to approve the minutes of December 9, 2019 as presented, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Lopez, Hinojosa, Leubert, Pecos, Fugate voting "FOR".**

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. None.

**III. Reports from Commission & Staff.<sup>2</sup>**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to, the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board,*

Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Condemnation Update, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports, Utilities Billing Update; Police & Fire Department – Grant Update, Police & Fire Reports; Streets Update; Public Works; Landfill Update, Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Emergency Management, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Health Department, Hotel Occupancy Report, Quiet Zone, SEP, Legislative Update, Proclamations, Employee Recognition, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Wastewater Treatment Plant, Water And Wastewater Rate Study Presentation, Golf Course, Library Summer Programs, Grants Update. No formal action can be taken on these items at this time.”

Mr. Mark McLaughlin, City Manager reported that he attended the Kingsville Police Department Swearing-in of new police officer as well as the graduation of the civilian academy on Monday, December 16<sup>th</sup>.

Commissioner Hinojosa commented that the Commission was not invited to the swearing-in of police officers. He stated that he would have liked for the Commission to have been invited.

Mrs. Courtney Alvarez, City Attorney reported that the next City Commission meeting is scheduled for Monday, January 13, 2020. The deadline for staff to submit items for this agenda is Friday, January 3<sup>rd</sup>. She further announced the residential garbage schedule for the holidays.

#### **IV. Public Comment on Agenda Items.<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

Susan Ivy, Director of Parks & Recreation announced upcoming events that will be occurring the next couple of weeks.

#### **V.**

##### **Consent Agenda**

##### **Notice to the Public**

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##### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)*

**Motion made by Commissioner Pecos to approve the consent agenda as presented, seconded by Commissioner Leubert. The motion was passed and approved by the following vote: Hinojosa, Leubert, Pecos, Lopez, Fugate voting “FOR”.**

1. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, adopting the 2018 Edition of the International Building Code and removing Section 15-1-3. (Interim Director of Planning & Development Services).
2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter XV, Article 1, Building Regulations, adopting the 2018 Edition of the International Existing Building Code. (Interim Director of Planning & Development Services).
3. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter IX, Article 5, Fire Prevention and Protection, adopting the 2018 Edition of the International Fire Code and revising the Permit Fee Schedule. (Interim Director of Planning & Development Services).

## REGULAR AGENDA

### CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

#### VI. Items for consideration by Commissioners.<sup>4</sup>

4. Consider final passage of an ordinance amending the zoning ordinance by changing the zoning map in reference to 3<sup>rd</sup>, Block 20, Lot W/2 18, 19 also known as 828 E. Alice, Kingsville, Texas from R1 (Single Family District) to R2 (Two-Family District); amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (Interim Director of Planning & Development Services).

Mrs. Alvarez stated that she would like to remind the Commission, that based on the City of Kingsville Code of Ordinances, Section 15-6-4(a)(b)(2), because the item was not approved by the Planning & Zoning Commission, it will require a three-fourths vote from the City Commission to approve a recommendation that was overruled by the Planning & Zoning Commission.

Commissioner Lopez asked if this is spot zoning?

Commissioner Pecos commented that he understood from the previous meeting that the owner was going to be providing a map to the Commission to show the parking and asked if that individual was present at this meeting.

The response from staff was no.

Mr. McLaughlin commented that to answer the questions opposed by Commission Lopez, yes this is spot zoning, in his opinion. He further commented several things are occurring with this; 1) we are deviating from the Master Plan by changing the zoning in this area, from what it already is, which is not supposed to be done; 2) it is deviating from what is already zoned in that area, which would carve out some of that area that is not zoned anywhere else within this area; 3) what's in it for the City, which is nothing. What is being done is what the law says shouldn't be done. City Manager further stated that this doesn't mean that the property owner cannot build a residential unit, but he cannot build a duplex within this area. He further stated that it is his recommendation to the Commission to not approve this item.

Mayor Fugate asked for a motion to approve this final passage.

Mrs. Alvarez mentioned Deny. Mayor Fugate commented that he was going to ask for a motion three times and see if anyone would motion the item for approval, if no motion made, item would die. Mrs. Alvarez commented that this is a third option, approve, deny, or call for a motion and receive no motion.

Mayor Fugate asked for a motion to deny the final passage of this ordinance.

**Motion made by Commissioner Leubert to DENY the passage of this ordinance, seconded by Commissioner Hinojosa and Commissioner Lopez. The motion to DENY this ordinance was passed and approved by the following vote: Leubert, Pecos, Lopez, Hinojosa, Fugate voting "FOR"**

**5. Discussion on Parks regarding youth baseball and softball league. (Parks Director).**

Mrs. Ivy read her memo which stated the following. History, last three years the League has been run by two different organizations. Both had inefficient financial records, insufficient communication with coaches, board members, and parents unresolved complaints and too much social media drama. Parks Advisory Board met with both leagues offering recommendations for improvements of the operation of the league. All recommendations were ignored. Parks Advisory Board has voted to recommend that the Parks Department, with the assistance of two Advisory Board Members (Ruben Canty and D.J. Flores) serve as Executive Board along with volunteer board members for two branches, one baseball and one softball to create Kingsville Parks Baseball and Softball League. The Board will select Officers, create Bylaws and run the operation of the league including All Star Play and tournaments. Note, Ruben Cantu has been involved with youth baseball and D.J. Flores is a past Board Member of Brush Country Girls Softball. The Parks Department will coordinate and handle all registration with funds going into a fund separated from the City's General Fund to hold all registrations, sponsorships, donations and any other revenue and pay all bills. Any additional funds will be used to pay expenses to field maintenance, improvements to baseball and softball fields, grant matches for fields and purchase of equipment. This will require approval by City Commission, and we plan to present this in detail at the first meeting in January. We need to begin registration immediately following that meeting. Parks Director, Susan Ivy, Parks Manager Jennifer Bernal and Advisory Board member D.J. Flores met on Monday, December 9<sup>th</sup> with the Regional Directors of Pony Baseball and Softball to get information on getting league setup. Information was exchanged and they were excited for our involvement and our plan. We are talking to some possible Corporate Sponsors to assist with "startup funds" to get the sanctioning paid and any equipment and supplies needed to get the league going. We would like to be able to announce immediately that we will be hosting this league so that local parents will know that a new option for youth sports will be available in our community. They are currently unaware that this might happen and are reviewing options from other communities. Ivy further commented that there is a big meeting on January 4<sup>th</sup> of the State Pony Directors which she will be attending.

Commissioner Lopez thanked staff for taking this back as it was a mess.

**6. Consider a resolution authorizing the Mayor to enter into a Water Supply Contract between the City of Kingsville and Texas A&M University-Kingsville, (renewal). (City Attorney).**

**Motion made by Commissioner Pecos to approve the resolution authorizing the Mayor to enter into a Water Supply Contract between the City of Kingsville and Texas A&M University-Kingsville, (renewal), seconded by Commissioner Leubert.**

Commissioner Hinojosa commented that after looking at the contract, the point of entry, page 2 section 4 of the contract, there is two point of entries and there are three backflow preventers. He asked for staff to explain this to him.

Mrs. Alvarez commented that the initial agreement with the University only had two points of entry and two backflow preventers. Since that point in time, an additional point of entry was added which required the additional backflow preventer. She further stated that a correction would need to be made stating three.

Commissioner Leubert asked if the motion previously made would need to be amended as the contract would need to be corrected.

Mrs. Alvarez responded that the motion could be amended to add the correction.

Commissioner Hinojosa further asked that on the size of the meter, it wasn't stated in the contract what size of meter it would be.

Mr. Bill Donnell responded that it is a six-inch meter.

Commissioner Hinojosa asked if this was stated in the contract. Mrs. Alvarez responded that this would not necessarily be in the contract, but whenever we have them listed as a customer that they get invoiced under, it should be listed in their billing information; as they are already an existing customer. Commissioner Hinojosa stated that maybe the size of the meter should be included.

Mayor Fugate asked Commission Pecos if he would like to amend his motion.

**Commissioner Pecos responded yes, he would like to include the correction as presented by the City Attorney, seconded by Commissioner Leubert.**

Commissioner Leubert asked if this would fall under commercial in the water bill service. Mr. Donnell responded yes.

City Secretary Mary Valenzuela asked for clarification of the motion for the record.

Mrs. Alvarez stated that, as was stated by Commission Pecos, with the motion to amend as per the recommendation of the City Attorney with regards to page 2, section 4(a), line 3, add Seale and Avenue B in the line that reads located at Avenue B and Armstrong and add Santa Gertrudis and Armstrong.

**The motion was passed and approved by the following vote: Pecos, Lopez, Hinojosa, Leubert, Fugate voting "FOR".**

- 7. Executive Session: Pursuant to Section 551.071, Texas Government Code, Consultation with Attorney Exception, the City Commission shall convene in executive session to seek legal advice from the City Attorney regarding a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter. (City Attorney).**

Mayor Fugate announced the Executive Session and convened the meeting into closed session at 5:19 p.m.

Mayor Fugate reconvened the meeting into open session at 5:51 p.m.

- 8. Discuss and consider an Agreement for Water Resource Management and Infrastructure Investment for the City of Kingsville. (Mayor Fugate).**

Mayor Fugate commented that based on the opinions of outside counsel and City Attorney to not accept this agreement in its present form.

Mayor Fugate asked for a motion.  
Mayor Fugate asked for a motion.  
Mayor Fugate asked for a motion.

**Item dies for a lack of a motion.**

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 5:53 P.M.

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Sam R. Fugate, Mayor

**ATTEST:**

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Mary Valenzuela, TRMC, CMC, City Secretary

# **CONSENT AGENDA**

# **AGENDA ITEM #1**

**City of Kingsville**  
**Department of Planning and Development services**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Emilio H. Garcia, City-County Health Director  
**DATE:** December 26, 2019  
**SUBJECT:** Re-appointment of Health Board Member

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**Summary:** Re-appointment of Ms. Norma Sue Adrian to the City-County Health Board for a term of 3 years.

**Background:** Ms. Norma Sue Adrain has served on the City-County Health Board for 3 years and would like to be re-appointed for another 3 years.

**Financial Impact:** None.

**Recommendation:** Approve request.



# **AGENDA ITEM #2**

**City of Kingsville  
Planning Department**

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TO: Mayor and City Commissioners  
CC: Mark McLaughlin, City Manager  
FROM: Cynthia Martin, Downtown Manager  
DATE: January 3, 2020  
SUBJECT: Continued Participation in the Texas Main Street Program

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**Summary:**

The City of Kingsville was re-certified as a Texas Main Street City in 2011 and has participated in the program every year since. Each year the City enters into a contract with the Texas Historical Commission (THC) for continued participation in the program and pay an annual participation fee. It is time to renew Kingsville's annual commitment to the program.

**Background:**

The mission of the Texas Main Street Program is "to provide technical expertise, resources and support for Texas communities in the preservation and revitalization of historic downtowns and commercial neighborhood districts." Local Main Street programs focus on responsibly utilizing a community's historic assets for economic benefit and increased quality of life.

Texas Main Street has a staff of eight dedicated solely to serving the 90 communities that currently participate in the program. These staff members provide a variety of specialized services in the areas of localized economic development; professional design services (architect, project designers); program capacity building and maintenance; planning and small business assistance. In addition, the Texas Historical Commission provides Main Street Managers and Main Street Board members free training opportunities throughout the year. These services come at no cost beyond the program's annual participation fee. Being a Main Street community also opens us up to special grant opportunities.

**Financial Impact:**

The 2020 annual fee for participation in the Texas Main Street Program is \$535.

**Recommendation:**

It is recommended that the City continue to participate in the Texas Main Street Program.



RESOLUTION NO. 2020- \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CITY OF KINGSVILLE TO CONTINUE PARTICIPATION IN THE TEXAS MAIN STREET PROGRAM, AUTHORIZING THE MAYOR TO EXECUTE THE TEXAS MAIN STREET LOCALLY DESIGNATED PROGRAM 2020 CONTRACT, AND DESIGNATING DOWNTOWN MANAGER CYNTHIA MARTIN AS THE MAIN STREET PROGRAM MANAGER FOR THE CITY OF KINGSVILLE TO COORDINATE PROGRAM ACTIVITIES.**

**WHEREAS:** The Texas Main Street Program of the Texas Historical Commission has been created to assist small cities to develop a public/private effort to revitalize their "Main Street" area, and Kingsville was selected in 2011 to participate in the Texas Main Street Program, has participated since then, and would like to continue to participate in 2020; and,

**WHEREAS:** The City of Kingsville desires to maintain its designation as a Texas Main Street to assist with the improvement and revitalization of our downtown area; and,

**WHEREAS:** The Mayor needs to execute the Texas Main Street Locally Designated Program 2020 Contract on behalf of the City to continue participation in this program; and,

**WHEREAS:** The City of Kingsville has hired Cynthia Martin as the Downtown Manager to assist the City with overseeing the "Main Street" area and the Texas Main Street Program.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

**SECTION 1.** That the City of Kingsville will continue participation in the 2020 Main Street Program with the specific goal of revitalizing the central business district within the context of the preservation and rehabilitation of its historic buildings.

**SECTION 2.** That the City of Kingsville will provide an adequate budget to employ a full-time Main Street Program Manager for a minimum of three years from its original designation date in 2011, which it has done, and provide funds for the training of the Main Street Program Manager and the operating expenses of the program.

**SECTION 3.** That the Mayor be authorized to execute the Texas Main Street Locally Designated Program 2020 Contract on behalf of the City of Kingsville.

**SECTION 4.** That Cynthia Martin, the City's Downtown Manager, be designated to supervise the Main Street Manager activities.

**SECTION 5.** That this Resolution shall be and become effective on or after adoption.

**PASSED, APPROVED, AND ADOPTED** by a majority vote of the City Commission this 13<sup>th</sup> day of January, 2020.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

TEXAS HISTORICAL COMMISSION

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**Texas Main Street Locally Designated Program  
2020 Contract**

**I. PARTIES TO THE CONTRACT**

This contract and agreement concerning Kingsville Main Street Program (“**Agreement**”) is entered into between the City of Kingsville (hereinafter referred to as “**Participant**”) and the Texas Historical Commission (hereinafter referred to as “**THC**”). Kingsville Main Street Program (hereinafter referred to as “**Local Program**”) is part of a larger program within the Texas Main Street Program (hereinafter referred to as “**TMSP**”), as defined in 13 TAC sec. 19.3(1), wherein the Participant qualifies as a Texas Main Street Small City, as defined in 13 TAC sec. 19.3. The purpose of the Local Program is to assist Participant with the development, revitalization, restoration, and preservation of its historic downtown or commercial neighborhood districts in accordance with the national Main Street Approach. This Agreement shall be governed by Texas Government Code, Section 442.014, and Texas Administrative Code, Title 13, Part 2, Chapter 19.

**II. NATIONAL MAIN STREET CENTER BRAND AND NETWORK**

This Agreement constitutes a designation of Participant as an official Texas Main Street City (as defined in 13 TAC sec. 19.3(2)) and allows the use of the National Main Street Center, Inc. brand, including MAIN STREET AMERICA™ controlled by National Main Street Center, Inc. 53 West Jackson Blvd., Suite 350 Chicago IL 60604. If Participant’s participation in the TMSP ceases, Participant may no longer use the term ‘Main Street’ to describe its local development, restoration, and preservation program; nor utilize or display the trademarks or branding of the National Main Street Center, Inc. The designation as a Texas Main Street City allows for full participation in the TMSP network, which includes eligibility to receive Texas Main Street publications and participate in Texas Main Street networking opportunities. Designated Texas Main Street Cities, such as Participant, shall execute and submit to the TMSP office the National Main Street Center’s Trademark Sublicense Agreement (“**TM Sublicense Agreement**”), which grants the right to use the registered trademark, logos and brand of National Main Street Center’s membership program - MAIN STREET AMERICA™. Participant hereby agrees to, and shall comply with, all terms and conditions of the TM Sublicense Agreement, which is attached hereto as Exhibit A, and incorporated herein by reference. Additionally, Participant acknowledges and agrees that in the event National Main Street Center develops and/or releases an updated TM Sublicense Agreement (“**Updated TM Sublicense Agreement**”) during the Term of this Agreement, Participant shall be required to execute, and comply with, the Updated TM Sublicense Agreement or otherwise be subjected to termination pursuant to the terms of VII. (B) below. In the event National Main Street Center develops and/or releases an Updated TM Sublicense Agreement, THC will provide Participant with sixty (60) days’ notice for Participant to consider, prepare and execute an updated Sublicense Agreement. Furthermore, the parties acknowledge and agree that the execution of such Updated TM Sublicense Agreement shall not require amendment of this Agreement and shall become part of this Agreement upon its execution. In the event of conflict between multiple TM Sublicense Agreements, the most recently executed version shall control.

**III. RESPONSIBILITIES OF THE PARTICIPANT AND LOCAL PROGRAM**

### **A. Staffing.**

In operation of the Local Program, Participant shall employ a full-time paid program manager who will attend at least two professional development segments annually as outlined in subsection B below. If necessary, a Texas Main Street Small City may, after the first three years of participating in the TMSP, permit the program manager position to also perform specific economic development, tourism, and other relevant duties while remaining as a full-time paid program manager. For the purposes of this Agreement, full-time employment means that the program manager works at least forty (40) hours per week dedicated toward the Local Program and downtown revitalization. Employees of the Participant shall be subject to the sole control and direction of the Participant. Participant shall move forward in an efficient manner to fill a program manager vacancy and the THC's State Coordinator shall be kept apprised of progress in filling vacancies. A Texas Main Street Urban City (as defined by 13 TAC 19.3(4)) shall additionally employ a full-time assistant program manager who shall also participate in the professional development under subsection B below.

### **B. Professional development.**

The program manager will attend two professional development opportunities in their entirety per year from the list below:

1. Real Places Conference of the Texas Historical Commission.
2. TMSP Basic Training. Required orientation for new program managers.
3. TMSP Summer Professional Development for all program managers.
4. Texas Downtown Association/Texas Main Street Annual Conference.
5. National Main Street Now Conference.
6. PastForward Conference of the National Trust for Historic Preservation.
7. Texas Downtown Association Roundtables
8. Workshops, certification programs, and webinars of the THC or MAIN STREET AMERICA™.

Experienced program managers, as determined by THC, may substitute non-Main Street specific, relevant professional development for one of the above events with prior approval of THC. New managers shall attend the TMSP Basic Training, listed second on the list above, within their first year of employment. If there is an assistant Main Street employee in addition to the program manager/s referenced above, that person should also attend at least one segment of Main Street professional development annually.

If a replacement program manager is hired who has not previously attended TMSP Basic Training or does not have a background in Main Street, as determined by THC, the manager is required to attend one series of Basic Training/Professional Development. A \$500 stipend shall be charged to Participant for the training series required under these circumstances.

To help ensure an effectively-functioning local program, local program boards/volunteers are encouraged to attend TMSP educational opportunities or to contact TMSP for on-site training. No stipend is charged for their participation.

### **C. Commitment.**

Participant agrees to carry out their Local Program work according to the Main Street Approach as promulgated by the National Main Street Center and displayed at <https://www.mainstreet.org/mainstreetamerica/theapproach>. Participant agrees to incorporate into their Local Program work, the following Main Street Community Accreditation Standards:

1. Broad-based Community Commitment
2. Leadership & Organizational Capacity
3. Diverse and Sustainable Funding
4. Strategy-Driven Programming
5. Preservation-Based Economic Development
6. Demonstrated Impact & Result

#### **D. Reporting.**

To measure progress, Participant shall track statistics such as reinvestment and job/business creation along with a quarterly activity report and submit them to the TMSP office by the 10th of the month following the end of each calendar quarter. Even if there has not been reinvestment activity in a quarter, Participant shall still submit a report noting such. Additionally, Participant shall submit an annual accreditation report that includes an evaluation of the Local Program implementation of the Main Street Community Accreditation Standards outlined in Section III. C above for the previous calendar year.

#### **E. Probation.**

Participant agrees that their Local Program may be placed on probation, which may result in the suspension of TMSP services or possible removal from the TMSP, for any of the following reasons:

1. Failure to submit an annual accreditation report pursuant to Section III. D above;
2. Failure to achieve accreditation objectives more than two (2) consecutive years;
3. Failure to submit activity reports for more than two (2) consecutive quarters;
4. Failure to submit reinvestment reports for more than two (2) consecutive quarters;
5. Failure to adequately staff or fund the program
6. Failure to abide by this Agreement.

THC shall notify Participant in writing prior to implementing probation in accordance with Texas Administrative Code, Title 13, Part 2, Chapter 19. In the case of probation, Participant will work with the THC's State Coordinator or delegate to overcome any deficiencies. THC may terminate the Local Program's participation in the TMSP if Participant fails to remediate identified deficiencies within a reasonable time. No fees will be refunded in cases of probation and any outstanding fees under this Agreement will remain due. During probationary status, the stipulations called for in sections III and IV of this Agreement may be temporarily altered or suspended upon THC's discretion.

#### **F. National Main Street America™ membership.**

Participant shall budget for and maintain membership in the National Main Street Center.

#### **IV. SERVICES TO BE PERFORMED BY TMSP**

##### **A. On-site visits and technical expertise.**

TMSP services are available to designated Texas Main Street Cities in good standing, including those provided through site visits to address design/planning, economic development and organizational/program capacity issues. Services may include, but are not limited to: downtown economic development assistance, façade renderings/technical reports, planning, preservation and historic building expertise by licensed architects and other design professionals; business development and funding advice, program manager and board training, program capacity-building, and strategic planning.

##### **B. Securing a Main Street Manager.**

Should a replacement program manager be needed, the TMSP office can assist with elements of the hiring process, including creating job descriptions, job posting and interviewing. Upon Participant's request, the TMSP office will assist in the hiring process; however, the responsibility for selection, salary, employment and employee-related legal matters will remain with Participant. Participant is responsible for, and shall hold THC and TMSP harmless from, all acts and omissions of its managers and all of its employees, agents, representatives, contractors and/or subcontractors.

#### **V. GENERAL TERMS AND RESPONSIBILITIES.**

##### **A. Confidentiality and Public Information Act.**

Notwithstanding any provisions of this Agreement to the contrary, Participant and THC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. THC and Participant agree to notify each other in writing within a reasonable time from receipt of a request for information related to Participant's work under this Agreement. Participant and THC will cooperate in the production of documents responsive to the request. Participant will notify THC within twenty-four (24) hours of receipt of any third-party requests for information that was provided by the State of Texas for use in performing the Agreement. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Subject to the Texas Public Information Act, Participant agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information.

##### **B. Dispute Resolution.**

The dispute resolution process provided for in Texas Government Code, Chapter 2260, shall be used by THC and Participant to resolve any dispute arising under the Agreement.

If Participant's claim for breach of Agreement cannot be resolved in the ordinary course of business, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Participant shall submit written notice, as required by Chapter 2260, to

the individual identified in the Agreement for receipt of notices. Compliance by Participant with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

The contested case process provided in Chapter 2260 is Participant's sole and exclusive process for seeking a remedy for an alleged breach of Agreement by THC if the parties are unable to resolve their disputes as described above.

Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Agreement by Participant and THC nor any other conduct of any representative of the Participant or THC relating to the Agreement shall be considered a waiver of sovereign immunity to suit by THC or any governmental immunity to which Participant is otherwise entitled under Texas law.

**C. Indemnification.**

TO THE EXTENT ALLOWABLE BY LAW, PARTICIPANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PARTICIPANT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT AND THE TM SUBLICENSE AGREEMENT AND/OR UPDATED TM SUBLICENSE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY PARTICIPANT WITH THE OFFICE OF THE ATTORNEY GENERAL ("OAG") WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PARTICIPANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. PARTICIPANT AND THC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

TO THE EXTENT ALLOWABLE BY LAW, PARTICIPANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, THC AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF PARTICIPANT PURSUANT TO THIS AGREEMENT AND/OR UPDATED TM SUBLICENSE AGREEMENT. PARTICIPANT AND THC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. PARTICIPANT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PARTICIPANT WITH THE OAG WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND

PARTICIPANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG.

**D. Independent Contractor.**

Participant or Participant's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing goods or services. Participant or Participant's employees, representatives, agents and any subcontractors shall not be employees of THC. Should Participant subcontract any of the services required in this Agreement, Participant expressly understands and acknowledges that in entering into such subcontract(s), THC is in no manner liable to any subcontractor(s) of Participant. In no event shall this provision relieve Participant of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this Agreement and the TM Sublicense Agreement or Updated TM Sublicense Agreement.

**E. Ownership of Intellectual Property.**

For the purposes of this Agreement, the term "Work Product" is defined as all reports, analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, knowledge, know-how, ideas, improvements, plans, advice, research, materials, intellectual property or other property developed, produced, or generated in part or in full by THC and/or in cooperation with Participant, in connection with this Agreement. Work Product specifically excludes pre-existing material owned by Participant, or material developed during the Term of this Agreement independently and exclusively by Participant without any THC involvement or contribution, and that does not include or incorporate any Work Product or Work Product components ("Independent Participant Material"). All Work Product generated pursuant to this Agreement is made the exclusive property of THC. All right, title and interest in and to said Work Product shall vest in THC upon creation and shall be deemed to be, and is expressly intended by the parties to be, a work made for hire and made in the course of the services rendered pursuant to this Agreement. To the extent that title to any such Work Product may not, by operation of law, vest in THC, or such Work Product may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to THC. THC shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the Work Product subject matter, and any extensions and renewals thereof.

Furthermore, if and to the extent THC provides Participant any Work Product and/or other property owned by THC ("THC Property") to assist Participant to further the Local Program and the purpose of this Agreement, THC hereby grants Participant, commencing upon the date that Participant is designated as a Texas Main Street City, a nonexclusive, revocable, worldwide, fully paid, royalty-free, license, for the Term of this Agreement while Participant remains designated as a Texas Main Street City, to reproduce, modify, distribute, publicly perform, publicly display and use the THC Property only to the extent such use is in furtherance of the Local Program. To the extent Participant provides any Independent Participant Material to THC in connection with this Agreement, Participant hereby grants THC, and THC accepts, a nonexclusive, perpetual, irrevocable, worldwide, fully paid, royalty-free license to use, reproduce, copy, modify distribute, publicly perform, publicly display, store, post on the Internet and creative derivative works of such Independent

Participant Material, and to sublicense and transfer such Independent Participant Material to third parties to use in accordance with these license terms for THC purposes.

**F. State Auditor.**

In addition to and without limitation on the other audit provisions of this Agreement, and to the extent applicable, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office may conduct an audit or investigation of Participant or any other entity or person receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by Participant or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, Participant or other entity that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit. Participant further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Participant shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Participant and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Participant related to this Agreement.

**G. Assignment.**

Participant may not assign this Agreement, in whole or in part, and may not assign any right or duty required under it, without the prior written consent of THC. Any attempted assignment in violation of this provision is void and without effect.

**VI. CONTRACT AMOUNT**

In accordance with Texas Government Code, sec.442.014(d) and 13 TAC sec.19.5(d), Participant shall pay THC a fee in the amount of \$535.00 to defray cost of staff time and expenses for services provided under the Local Program. THC shall invoice for the fee and Participant shall tender payment within 60 days.

**VII. TERM and TERMINATION**

**A. Term.**

This Agreement begins upon the latest date the Agreement becomes fully executed by individuals who have the authority to bind the party on whose behalf he or she is signing ("Effective Date") and shall expire on December 31, 2020 unless terminated at an earlier date pursuant to subsection B below.

**B. Termination.**

1. Either party shall have a right to terminate all performances to be rendered under this Agreement by notifying the other party in writing at least ten (10) days in advance of the termination date.
2. In the event Participant refuses or fails to execute any Updated TM Sublicense Agreement pursuant to the terms of Section II. above within sixty (60) days of receipt thereof, THC shall have the right to immediately terminate this Agreement by written notice to the Participant.
3. Upon termination of this Agreement under subsections 1 and 2 above, Participant will no longer be designated as an official Texas Main Street City (as defined in 13 TAC sec. 19.3(2)), and will no longer be allowed the use of any Work Product or THC Property, as defined herein, or the registered trademark, logos and brand of National Main Street Center's membership program MAIN STREET AMERICA™. In such event, Participant agrees to return to THC any Work Product and THC Property in its possession.
4. No funds paid under Section VI. Above shall be refunded in any case of termination.

### **VIII. CHANGES AND AMENDMENTS**

Any alterations, additions, or deletions to the terms of this Agreement shall be in writing and signed by both parties.

### **IX. APPLICABLE LAW AND VENUE; NO WAIVER; SEVERABILITY**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit arising under this Agreement is fixed in any court of competent jurisdiction of Travis County, Texas.

Nothing in this Agreement shall be construed as a waiver of THC's sovereign immunity or any governmental immunity to which Participant is entitled under Texas law. This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Participant, THC or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Participant, THC or the State of Texas under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

### **X. PROHIBITED FOREIGN BUSINESSES**

In accordance with Texas Government Code, Chapter 2252, Subchapter F, Participant hereby represents and warrants that it is not a company identified on the lists prepared and maintained under Texas Government Code §§ 806.051 (companies with business operations in Sudan), 807.051 (companies with business operations in Iran), or 2252.153 (companies known to have contracts with or provide supplies or services to a foreign terrorist organization).

Notwithstanding the foregoing, a company that the United States government affirmatively

declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or to a foreign terrorist organization, is not subject to contract prohibition under this clause. A company claiming such exemption must submit the official copy of the declaration.

## **XI. FORCE MAJEURE**

THC shall not be responsible for performance under this Agreement should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of THC.

Participant shall not be liable to THC for non-performance or delay in performance of a requirement under this Agreement if such non-performance or delay is due to one of the following occurrences, which occurrence must not be preventable through the exercise of reasonable diligence, be beyond the control of Participant, cannot be circumvented through the use of alternate sources, work-around plans, or other means and occur without its fault or negligence: fire; flood; lightning strike; weather damage; earthquake; tornado; hurricane; snow or ice storms; equipment break down; acts of war, terrorism, riots, or civil disorder; strikes and disruption or outage of communications, power, or other utility.

In the event of an occurrence under the above paragraph, Participant will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail, and Participant continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Participant shall immediately notify the THC's State Coordinator by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

## **XII. NOTICES.**

Any notices and/or documents required hereunder shall be deemed to have been duly provided if in writing and delivered personally or by pre-paid guaranteed overnight delivery service, or sent postage prepaid by United States certified mail, return receipt requested. Any such notice shall be effective on the date of delivery if delivered personally, on the next business day following delivery to the guaranteed overnight delivery service if the notice was so delivered and the charges were prepaid, or on the date the recipient signed for the notice if sent by certified mail.

Notices shall be addressed as follows, or at such other address as any party hereto shall notify the other of in writing:

If to THC.:  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711

If to Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE UNDERSIGNED PARTIES BIND THEMSELVES TO THE FAITHFUL PERFORMANCE OF THIS AGREEMENT.

\_\_\_\_\_  
Authorized Signature  
(City Manager, Mayor, or Board Chair)

Date: \_\_\_\_\_

Signer title: \_\_\_\_\_

Signer printed name: \_\_\_\_\_

Signer address: \_\_\_\_\_

Signer phone: \_\_\_\_\_

\_\_\_\_\_  
Debra Drescher, State Coordinator  
Texas Main Street Program  
P.O. Box 12276 Austin, TX 78711  
512-463-5758 [debra.drescher@thc.texas.gov](mailto:debra.drescher@thc.texas.gov)

Date: \_\_\_\_\_

\_\_\_\_\_  
Mark Wolfe, Executive Director  
Texas Historical Commission  
P.O. Box 12276 Austin, TX 78711  
512-463-6100

Date: \_\_\_\_\_

## TRADEMARK SUBLICENSE AGREEMENT

This Trademark Sublicense Agreement (“Sublicense Agreement”) is entered into between Texas Historical Commission (“Coordinating Program”) and \_\_\_\_\_ (“**Sublicensee**”), effective as of the last date written below. For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### 1. Background.

A. The National Main Street Center, Inc. (“NMSC”) operates a membership program called MAIN STREET AMERICA™. As a part of that program, MAIN STREET AMERICA™ Coordinating Program Membership is available to statewide, regional or citywide organizations that oversee multiple local downtown and neighborhood programs within their service area and work to preserve and revitalize commercial districts. Local Program membership in the MAIN STREET AMERICA™ program is available at the Affiliate or Accredited levels to individual programs or organizations that satisfy the membership eligibility criteria described on the NMSC website (currently located at: <http://www.preservationnation.org/main-street/about-main-street/main-street-america/main-street-america-tier.html#.VmYLY7grLIU>).

B. Organization is a Coordinating Program Member of NMSC in good standing and has entered into a Trademark License Agreement with the NMSC which grants to the Coordinating Program the right to sublicense to its Local Programs the use of the NMSC name and trademarks described below.

C. Sublicensee is a Local Program Member in good standing of the MAIN STREET AMERICA™ program at the Accredited level. Sublicensee is also located within the Coordinating Program’s geographic service area. Therefore, Sublicensee has the opportunity to enter into this Trademark License Agreement, which grants certain rights to use the NMSC’s name and trademarks, including MAIN STREET AMERICA™ and MAIN STREET®, as described below.

D. The NMSC’s parent entity, the National Trust for Historic Preservation (“National Trust”), owns the following registered trademarks, which it has delegated to the NMSC the right to sublicense. NMSC and Coordinating Program have entered into a Trademark Licensing Agreement which grants the Coordinating Program the right to sublicense the following registered trademarks:

| Mark                        | U.S. Registration Number          |
|-----------------------------|-----------------------------------|
| MAIN STREET                 | Reg. Nos. 3,365,568 and 2,057,207 |
| NATIONAL MAIN STREET CENTER | Reg. No. 2,013,837                |

These registered trademarks owned by the National Trust, together with the MAIN STREET AMERICA™ word marks and logos referred to in Section 2.A.1 below, the NATIONAL MAIN STREET CENTER logo referred to in Section 2.A.ii below are referred to herein as the “Trademarks.”

E. The Trademarks are well known and recognized by the general public and associated in the public mind with the NMSC and the National Trust. The Coordinating Program and the Sublicensee recognize the mutual benefits that accrue from the Sublicensee’s use of the Trademarks in accordance with the terms and conditions of this Sublicense Agreement, including the recognition and credibility brought to the Sublicensee through its use of these Trademarks and the benefit to the Coordinating Program and NMSC from association with high-performing Local Programs.

**National Main Street Center  
Local Program Accredited Member Sublicensing Agreement**

**2. Grant of Sub-License.**

A. Subject to the terms and conditions of this Sublicense Agreement, the Coordinating Program hereby grants the Sublicensee the non-exclusive right and license to use the Trademarks to identify and promote its participation in the MAIN STREET AMERICA™ program, as well as its relationship and association with the Coordinating Program and NMSC, in connection with the following activities:

- i. **MAIN STREET AMERICA™ word and logo marks.** The Sublicensee's rights to use the MAIN STREET AMERICA™ word mark and the following MAIN STREET AMERICA logo are limited to Sublicensees which are members in good standing at the Accredited membership level of the MAIN STREET AMERICA™ program:

For use by Local Programs who are Designated Members at the Accredited Level:



*As a Main Street America™ Accredited program, INSERT NAME HERE is a recognized leading program among the national network of more than 1,200 neighborhoods and communities who share both a commitment to creating high-quality places and to building stronger communities through preservation-based economic development. All Main Street America™ Accredited programs meet a set of National Accreditation Standards of Performance as outlined by the National Main Street Center.*

- ii. **NATIONAL MAIN STREET CENTER® word and logo marks.** The Sublicensee's right to use the NATIONAL MAIN STREET CENTER word mark and the following NATIONAL MAIN STREET CENTER logo solely and exclusively to indicate its association with the National Main Street Center:



- iii. **MAIN STREET® word mark.** The Sublicensee's right to use the MAIN STREET trademark is limited to use made to identify Sublicensee and/or its activities, including as part of the name of the Licensee (e.g. "Main Street Iowa"), in connection with commercial district revitalization and related consultation, education, and training.

**3. Scope of and Limitations on Use.** Use of the Trademarks by the Sublicensee will be subject to the following limitations:

A. Sublicensee must display the Accredited level MAIN STREET AMERICA membership mark on their website. All uses of the MAIN STREET AMERICA word mark and logo by Sublicensee

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Local Program Accredited Member Sublicensing Agreement**

must follow the specific mark, color, and character usage set forth in the Brand Identity Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations), in connection with the MAIN STREET AMERICA mark or logo. Use of the MAIN STREET AMERICA word mark and logos by Sublicensee is a mandatory condition of membership in the MAIN STREET AMERICA program.

B. The MAIN STREET mark, as part of the name and identity of Sublicensee's organization, programs, and activities, can be used on materials designed to promote the work of Sublicensee (e.g., website, brochures, newsletter, letterhead or other printed promotional materials). The right to use the MAIN STREET mark by the Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

C. All uses of the NATIONAL MAIN STREET CENTER logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Identity Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations) in connection with the NATIONAL MAIN STREET CENTER mark. Use of the NATIONAL MAIN STREET CENTER logo by Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

D. This Sublicense Agreement is subject to the terms, conditions, and limitations of the Trademark License Agreement between NMSC and the Coordinating Program.

E. Sublicensee will not apply to register any of the Trademarks, or any other trademark that incorporates any part of the Trademarks or "National Trust for Historic Preservation." Sublicensee will not state or imply that it owns any such trademarks.

F. The Sublicensee will not use the Trademarks in combination with or in juxtaposition with other trademarks except as may be approved in writing by the NMSC. The Sublicensee will apply and display the ® symbol and the ™ symbol next to or with respect to the Trademarks as directed by the Coordinating Program.

G. Other than as specifically provided herein, Sublicensee is not granted any other rights to use, license or sublicense the Trademarks.

**4. Term.** This Sublicense Agreement will become effective immediately upon the date of last signature below, and, unless terminated early under Sections 5 or 10, will be effective through December 31, 2020, at which time it may be renewed by mutual written agreement of the parties hereto.

**5. Conditions.** This Sublicense Agreement between Coordinating Program and Sublicensee is conditioned upon Sublicensee having an active MAIN STREET AMERICA membership at the Accredited level with NMSC. The requirements of this membership are currently available at: <http://www.preservationnation.org/main-street/about-main-street/main-street-america/main-street-america-tier.html#.VmYLY7grLIU>, and are incorporated herein by reference.

**6. Acknowledgment of Ownership.** Use of the Trademarks indicates acknowledgment by the Sublicensee of the NMSC's and the National Trust's rights and title to the Trademarks, (i.e. MAIN STREET AMERICA, NATIONAL MAIN STREET CENTER, and MAIN STREET), and that Sublicensee will not at any time do, or permit to be done, any act or thing that will in any way impair

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the rights of the NMSC or the National Trust. All use of the Trademarks by the Sublicensee will inure to the benefit of the NMSC and the National Trust.

**7. Good will and promotional value.** Sublicensee recognizes and acknowledges the value of good will associated with the Trademarks and agrees that it will not conduct any activity, provide any service, or produce or distribute goods which in any way damages or reflects adversely upon the NMSC or the National Trust.

**8. Non-assignment.** This Sublicense Agreement is personal to the Sublicensee, and may not be assigned to any other individual, program, organization, or agency. Any attempted assignment will be null and void.

**9. Compliance Verification.** It is the responsibility of the Sublicensee to verify compliance with the terms of this Sublicense Agreement, and to provide complete and accurate usage reports to the Coordinating Program. If the Coordinating Program or the NMSC has reason to believe that the Sublicensee is in violation of this Sublicense Agreement, the Coordinating Program or NMSC shall have the right to make inquiries with Sublicensee as necessary to determine compliance. In such case, the Sublicensee will cooperate with the Coordinating Program and/or NMSC in its investigation and provide in a timely fashion any and all information that is requested.

**10. Termination.**

A. Coordinating Program may terminate this Sublicense Agreement if the Sublicensee violates any of the provisions of this Sublicense Agreement or fails to satisfy the membership criteria established by the NMSC for Accredited Local Programs. Such termination will be effective thirty (30) days after the Coordinating Program sends written notice of such termination to Sublicensee. During this thirty (30) day period, Sublicensee may attempt to cure such violation. If the violation is not cured during this period, the termination will be effective upon the expiration of the thirty (30) day period.

B. This Sublicense Agreement will automatically terminate immediately without any notice required, notwithstanding the above paragraph, if the Coordinating Program or NMSC determines: (i) that sublicensee's actions could negatively affect the goodwill, image, or reputation of the NMSC, the National Trust for Historic Preservation, the Coordinating Program, or any of the Trademarks; (ii) the Sublicensee discontinues all or a significant portion of its business; (iii) the National Trust terminates, revokes, or fails to renew the NMSC's rights to use, license, or sublicense the Trademarks; or (iv) the NMSC terminates, revokes or fails to renew the Coordinating Program's rights to use, license or sublicense the Trademarks.

C. Upon the expiration or early termination of this Agreement, the Sublicensee will discontinue use of the Trademarks and will destroy and delete tangible and electronic documents and files containing any such marks, except for a limited number of copies retained for archival purposes only.

**11. Governing Law.** This Agreement is entered into in the District of Columbia and will be governed by and construed in accordance with the laws of the District of Columbia, USA, without giving effect to conflict of laws provisions.

**12. Annual Report, Notices, Other Communication.** Upon request by the Coordinating Program or NMSC, Sublicensee shall submit samples of any materials on which the Trademarks

**National Main Street Center  
Local Program Accredited Member Sublicensing Agreement**

licensed under this agreement were used during the year. Such samples shall be submitted within ten business days of receipt of a written request from the Coordinating Program or NMSC.

**13. Notices.** Any notices which either party is required or may desire to serve upon the other party shall be in writing and may be served either personally or by depositing the same in the mail (first class postage prepaid, certified and return receipt requested) or with a reputable overnight express delivery service (with confirmed delivery, charge prepaid or billed to shipper), addressed to the party to be served as follows, unless a different address is designated in writing by the party to be served. Notice shall also be required to be given by electronic mail on the same date as deposited in the mail. Notice given by mail alone shall not be sufficient.

**To Coordinating Program:**

Name: Texas Historical Commission  
Address: PO Box 12276  
Austin, TX 78711-2276  
Phone: 512-463-5758  
Email: debra.drescher@thc.texas.gov

**To Sublicensee:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**14. Successors.** This Agreement shall be binding upon, and will inure to the benefit of, the parties and their respective permitted successors and assigns.

**15. Modification.** No amendment or modification of the terms or conditions of this License Agreement will be valid unless in writing and signed by both parties.

**16. Waiver.** The failure of either party to partially or fully exercise any right or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of this Sublicense Agreement. No waiver shall be valid or binding unless in writing and signed by the waiving party.

**17. Severability.** If any provision of this Sublicense Agreement or the application of any provision hereof to any person or circumstances is held to be void, invalid, or inoperative, the remaining provisions of this Agreement shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity.

**18. Entire Agreement.** This Sublicense Agreement is the entire agreement between the parties with respect to the matters referred to herein and it supersedes and replaces all prior and contemporaneous oral and written understandings pertaining to the subject matter hereof.

**Coordinating Program**

**Sublicensee**

**National Main Street Center  
Local Program Accredited Member Sublicensing Agreement**

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# **REGULAR AGENDA**

# **AGENDA ITEM #3**

**City of Kingsville  
Parks & Recreation**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Susan Ivy, Parks Director  
**SUBJECT:** Request Approval for Kingsville Parks to sponsor Youth Baseball/Softball League

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**Summary:** Kingsville Parks is requesting approval to sponsor the Kingsville Parks Youth Baseball and Softball League.

**Background:** The youth baseball and softball league in Kingsville needs a new sponsoring entity. With several private organizations struggling over the last several years to provide clean accounting, standardized rules and communication with parents, coaches and umpires, Kingsville Parks Advisory Board has recommended that the Parks Department oversee the registration, pay bills and implement a Board of Directors to oversee the League. A statement is attached providing additional details of the operation of the league.

**Financial Impact:** While we do not know at this time what registrations will be or what exact expenses will be, we are certain that we can pay for league expenses and some field operational expenses with some additional fundraising and sponsorships and hope to accrue some funds for field improvements.

**Recommendation:** I respectfully request that City Commission approve the for Parks Department to sponsor the Kingsville Parks Youth Baseball & Softball League and the associated budget amendment to set up anticipated revenues and expenditures.



## Kingsville Parks Youth Baseball and Softball League

1. This league will be a division of the City of Kingsville Parks & Recreation Department.
2. All revenues and expenditures will be done through City Finance Department. Any extra funds accumulated or raised may be carried over to the following year and may be used for field improvements, equipment or other things that benefit the baseball and softball facilities and league as approved and voted on by the league board and as approved as following the priorities of the league, Parks Department and the Parks Master Plan.

It will be a division in the General Fund and at the end of each quarter or annually, whatever the excess funds are, we will record that into a liability account designated for the league and basically, that account will be your fund balance representation. The difference between your revenues and expenditures will be the amount of remaining funds.

3. Entry fee will be \$70.00 per child with additional sibling registered at \$60 each. Registrations will be done through an online service "Sports Engine". This will assist with scheduling and stats as well.
4. Based on previous years numbers we anticipate:  
16 teams for boy and 18 teams for girls = \$70.00 per child x 12 per team or \$28,560.00  
Each team will be asked to obtain a \$300.00 sponsor which would total \$10,200.  
These funds will be used for uniforms, equipment, umpires, insurance, sanctioning fees, end of season awards and all star expenses.
5. The league will be overseen by a Board of Directors, Parks staff and Parks Advisory Board members. President and Treasurer to be appointed by Parks and Advisory Board members. Parks Advisory Board Members Ruben Cantu and DJ Flores both have experience with the leagues and will serve as advisory board members.  
Jennifer Bernal will serve as league treasurer.  
City Employee and board member of the past league, Aaron Vela, will be appointed President of the League and other officers will be voted on formally by the Board members.  
There will be a Player agent for each side, Boys and Girls with board members assisting.
6. Umpires will be paid weekly to an Umpire organization that will distribute funds to umpires. We are budgeting \$35.00 for each umpire per game.  
We will contract concessions with a percentage benefitting the league.  
We should also receive a percentage of fees from league pics taken and sold.
7. The league will be sanctioned through PONY League.

If approved the schedule will be as follows;  
January 13<sup>th</sup> Approval by commission  
January 16<sup>th</sup> newspaper, social media/registration opens  
February 15<sup>th</sup> Late fee starts on registration until 22<sup>nd</sup>  
February 22<sup>nd</sup> Tryouts DKP  
February 23<sup>rd</sup> Draft at DKP Rec Hall  
March 2<sup>nd</sup> Play Ball!

Budget amendment totals

|                               |           |
|-------------------------------|-----------|
| entry fees revenue            | 28,560.00 |
| sponsorships                  | 15,000.00 |
| concessions                   | 3,500.00  |
| <br>                          |           |
| total revenue                 | 47,060.00 |
| <br>                          |           |
| expenditures                  |           |
| <br>                          |           |
| minor equipment               | 7,060.00  |
| uniforms                      | 20,160.00 |
| professional services umpires | 15,000.00 |
| insurance, sanctioning fees   | 5000.00   |
| <br>                          |           |
| total expenditures            | 47,060.00 |

**KINGSVILLE PARKS YOUTH SOFTBALL AND BASEBALL LEAGUE  
CONSTITUTION, BY-LAWS AND REGULATIONS**

**SECTION I**

**CONSTITUTION**

**MISSION OF KINGSVILLE PARKS AND RECREATION YOUTH SOFTBALL  
BASEBALL LEAGUE**

**The goal of KPYSBL is to provide the basic skills and knowledge of  
Softball/Baseball to eventually prepare players  
for a higher level of play.**

**ARTICLE I**

The name of this organization shall be the **KINGSVILLE PARKS YOUTH SOFTBALL  
BASEBALL LEAGUE** and will be known as **KPYSBL** for all purposes hereafter  
enumerated. It will be a division of the City of Kingsville Parks & Recreation Department.

**ARTICLE II**

KPYSBL shall teach good sportsmanship, educate youth participants and adult sponsors in the fundamentals of the game of softball/baseball, promote the game of softball/basball through sponsorship of regularly schedule softball/baseball competition, and conduct such other education activities that shall be deemed appropriate to the promotion of Softball and Baseball.

**ARTICLE III**

KPYSBL shall represent all members that fall within its boundaries. The boundary will include Kleberg County and Kenedy County. Individuals or teams from outside this boundary may participate in KPYSBL. If they live in an area not served by another PONY girls' softball league/boys' baseball league and their registration is approved by the player agent.

**ARTICLE IV**

KPYSBL shall be affiliated with and subject to the authority of the Amateur Softball Association (ASA) and Protect Our Nation's Youth (PONY).

## ARTICLE V

Membership in the KPYSBL shall be on a seasonal basis and will consist of the following:

- A. Registered participants – Those individuals who have paid the Registration fee and properly completed all forms set by the Board Of Directors of KPYSBL.
- B. Parents or guardians of registered participants.
- C. Managers, coaches, assistant coaches, members of the Board of Directors and other duly appointed officials of the KPYSBL.

## ARTICLE VI

KPYSBL shall be directed by the Executive Board of Directors (herein referred to as the Board). The Board shall consist of the following elected officers: President, Vice-President, Secretary, Treasurer, and Player Agent elected for a two (2) year staggered term commencing by September 1. (The President, Treasurer, and Player Agent will be elected for two year terms on even numbered years and the Secretary and Vice-President shall be elected for two year terms on odd numbered years.) **\*These elected officers shall be elected by the current board members. Each officer shall officially file for office and be placed on an official nominating slate for election. The President and the Treasurer are being appointed by the Parks Director for the first term.**

The Board of Directors shall include the following appointed and approved directors: Ways and Means Director, Insurance Director, Equipment Director, Division Directors (Foal, Shetland, Pinto, Mustang, Bronco), Statistics Director, and Community Directors (Riviera and Ricardo). Director's responsibilities are noted in Section II (Bylaws). After approval by the Board, these appointed directors will not have voting privileges. The Manager/Coach Director will be elected by the Managers and will be a voting Member of the Board.

In the event of a vacancy on the Board, the remaining Board Members may appoint a successor by a majority vote of a quorum of the Board.

## ARTICLE VII

The seasonal year for the KPYSBL shall be September 1 through August 31.

## ARTICLE VIII

The annual meeting of the KPYSBL shall be held each year, as set by the Board of Directors. The meeting shall be held in the month of August. A minimum of two weeks' notice of said meeting shall appear in the local newspaper, league website, and all available media outlets. The order of business shall be as follows:

- A. Meeting Called to Order.
- B. Reading of Minutes of Last Meeting.
- C. Unfinished Business.
- D. Report of Officers, Directors, and Committees.
- E. Election of Officers.
- F. New Business.
- G. Adjournment.

All meetings of all voting members may be called at any time by the Board of Directors. All meetings of the KPYSBL shall be conducted in accordance with the latest edition of **Robert's Rules of Order.**

#### **ARTICLE IX**

Amendments to the Constitution, By-Laws, and Rules and Regulations of the KPYSBL may be made to the Board at any meeting prior to try-outs. A quorum vote of Board Members or an Executive decision will be sufficient to approve changes. Any proposal to amend the Constitution, By-Laws, and Rules and Regulations must be made in writing to the Secretary and submitted to the Board Members for review at a scheduled meeting to vote on proposed Amendments.

#### **ARTICLE X**

All expenditures by the KPYSBL will be approved by the Board prior to obligating the KPYSBL. The Board will manage the KPYSBL funds in a responsible manner. The Board will operate within a balanced budget and will not approve any purchases in excess of funds available in the KPYSBL treasury. **All major expenditures for items such as equipment, uniforms and insurance will be approved by the Board.**

KPYSBL shall establish a line of credit with a local supplier to purchase materials for the season and have the authority to purchase such materials (building repairs, field dust, equipment, etc.). KPYSBL shall insure that all suppliers' receipts are signed by the Equipment Director, League President, Vice-President, or Treasurer. Any purchase of materials that exceed the pre-determined amount set by the Board of Directors would require approval by the League President, Vice-President, or Treasurer. To be edited for purchases by City staff/treasurer any line of credit would be City

Any purchases made for KPYSBL that are not regularly purchased items normal to the execution of the baseball/softball season, i.e., bats, balls, batting helmets, etc., would require pre-approval by the Board.

Types of purchases may be office equipment, software, computers, copy machines, communication equipment, etc. Any purchases of this type would require board approval by a majority vote of the KPYSBL Board of Directors. All such purchases will be the property of KPYSBL.

## ARTICLE XI

In the event the KPYSBL is dissolved or ceases to function, the assets and properties of the association shall be transferred first to any succeeding boys' baseball/girls' softball league that operates within the boundaries of the KPYSBL. If no such organization exists, the assets and properties will be transferred to the Kingsville Parks and Recreation Department.

## ARTICLE XII

KPYSBL will secure insurance for the Board of Directors and registered players. Insurance for players shall meet requirements as determined by PONY AND KPYSBL. Neither PONY nor KPYSBL shall not be responsible for the deductible incurred. Insurance coverage is in effect from date of tryouts until participation in league activity ceases.

## SECTION II

### BY LAWS

## ARTICLE I

The **President** of the KPYSBL shall have the following responsibilities:

- A. Preside at all general meetings of the league.
- B. Preside at all meetings of the Board of Directors.
- C. Appoint delegates to any softball association or league meetings.
- D. Submit an annual report in writing at the annual meeting.
- E. Be responsible for and coordinate the activities of all members of the Board and appoint special committees.
- F. Keep informed of all activities within the KPYSBL.
- G. Have an audit made of all financial records once a year by president, treasurer and equipment director.
- H. Compile and distribute current season's calendar of events, including scheduled league activities, deadlines, tournament dates, etc.
- I. Direct committee activities to solicit and acquire sponsors for all teams.
- J. Register teams for PONY affiliation/tournament play.

## ARTICLE II

The **Vice-President** of the KPYSBL shall have the following responsibilities:

- A. Succeed to the powers of the President in his/her absence.
- B. Keep informed of activities of the league with the Player Agent.
- C. Prepare game schedules for the playing season and modify as necessary due to rainouts, etc.
- D. Provide game schedules and changes to umpires/division directors.

### ARTICLE III

The **Secretary** of the KPYSBL shall have the following responsibilities:

- A. Record the minutes of all general meeting and Board meetings.
- B. Set up a secretarial pool for typing of KPYSBL literature or correspondence as necessary.
- C. Publicize league activities as needed.
- D. Contact public school officials to acquire use of practice fields for the league.

### ARTICLE IV

The **Treasurer** shall have the following responsibilities:

- A. Be responsible for all banking deposits and withdrawals within the City of Kingsville's guidelines.
- B. Maintain accurate accounting of all funds received and disbursed, and be prepared to submit a financial report at all Board meetings.
- C. Prepare a written financial statement for the annual meeting.
- D. Coordinate with the Player Agent the collection of registration fees and issuance of receipts at sign-up. Acquire registration sites, provide materials, etc.
- E. File all required state and federal forms when due.
- F. Compile list of eligible umpires of Board approval.
- G. Administer Board approved guidelines, regulations, etc.
- H. Maintain communication with Managers and Umpire Association and transfer such findings to the Board.
- I. Responsible for obtaining umpire payroll vouchers.
- J. Compile and submit payment summary.

### ARTICLE V

The **Player Agent** shall have the following responsibilities:

- A. Record all player transactions and maintain an accurate and up-to-date record thereof.
- B. Receive and review applications for player candidates and check player Age eligibility.
- C. Schedule and coordinate the player registration, try-outs, and draft.
- D. Conduct the draft and maintain player pools per division after draft. Assignments of players will be conducted on a daily basis.

- E. Conduct all player transactions or pool selections after draft and throughout season.
- F. Prepare player agent's list.
- G. Prepare team rosters and acquire team information from directors as needed.

## **ARTICLE VI**

The **Insurance Director** shall have the following responsibilities:

- A. Entails being in charge of the league's insurance, to include procuring the insurance and being the contact person.
- B. File all insurance claims on behalf of league.

## **ARTICLE VII**

The **Ways and Means Director** shall have the following responsibilities:

- A. Direct all fund raising activities through committee chairperson/team mothers.
- B. Keep record of fundraising totals for each team and report directly to the Treasurer

## **ARTICLE VIII**

The **Equipment Director** shall have the following responsibilities:

- A. Issue and maintain an inventory of all equipment.
- B. Requisition equipment and uniform shirts through sealed bids approved by the Board.
- C. Collect, inventory, and report on equipment to the Board at the end of the season.
- D. Secure and schedule the use of sufficient neighborhood practice areas for the league.
- E. Provide game balls as required.
- F. Organize "Picture Day" for team players, etc.

## **ARTICLE IX**

The **Division Directors** (Foal, Shetland, Pinto, Mustang, Bronco) shall the following responsibilities:

- A. Assist the Player Agent during registration of players.

- B. Coordinate, as directed by the Player Agent, tryouts and draft.
- C. Direct information of teams within assigned division.
- D. Assist Statistics Director to distribute and/or collect equipment/uniform shirts/ schedules, etc. to each team in assigned division.
- E. Assist the Ways and Means Director by coordinating team mother for distribution and collecting fund raising materials to team in assigned division.
- F. Assist Publicity Director in maintaining win/loss records for publication within assigned division.
- G. Assist as game directors as assigned by President.

## ARTICLE X

The **Manager/Coach Director** shall have the following responsibilities:

- A. Represent managers/coaches at regularly scheduled meetings.
- B. Maintain communication with managers and transfer such findings to the Board.
- C. Schedule and coordinate coaching clinics as needed.
- D. Schedule tournament events for league.
- E. Deliver schedule to Board members, division directors, etc., to communicate to all teams.
- F. Work with equipment director for needed equipment, trophies, and/or ribbons for awards at tournament.

## ARTICLE XI

The **Statistics Director** shall have the following responsibilities:

- A. Maintain and post standing and game results of each game in divisions.
- B. Submit standings to news media weekly for publication.

## ARTICLE XII

### **Committee Chairpersons:**

The committee chairpersons shall be appointed by the President with the approval of the Board to perform duties as needed for the well-being of the league. Chairpersons of such committees are recognized as non-voting meetings to the Board. Such committee chairpersons will include and not be limited to the following:

## ARTICLE XIII

The **President, Vice President, Secretary, Treasurer and Player Agent** shall constitute an Executive Committee on matters demanding immediate attention where it is impossible to call a meeting of the full Board, and /or quorum is not met, and a vote must take place.

An executive decision may be made by 3 of the above listed officers.

#### **ARTICLE XIV**

The Board shall transact all business of the KPYSBL, and shall have the power to enforce the Constitution, By-Laws, and Rules and Regulations of the KPYSBL. It shall have the power to settle all disputes, appeals, or protests that may arise. **Meetings will be scheduled by the President.**

#### **ARTICLE XV**

The address of the KPYSBL shall be a permanent P.O. Box number.

#### **ARTICLE XVI**

The Board shall have the power to set up rules governing regular season, post season, and tournament play/special events competition. This shall include the power to interpret or expand the rules as necessary, to secure an orderly season. This shall also include the power to set registration fees.

The Board shall set policies regarding practices for the season, post season, and tournament play/special events competition.

#### **ARTICLE XVII**

**Five members** of the Board shall constitute a quorum at any meeting of the Board. A majority vote shall be sufficient to decide all questions put to a vote.

#### **ARTICLE XVIII**

A complete equipment inventory and financial report must be submitted to the Board and may be subject to an audit. All equipment must be collected and stored at the end of the playing season and/or tournament play.

#### **ARTICLE XIX**

##### **Team Participation Guidelines:**

##### **Out of Town Teams:**

- A. Must be an ASA/PONY/TAAF or other chartered and insured team.
- B. Must meet age divisions established by KPYSBL.
- C. Must meet league uniform requirements.
- D. Pay officials' fee per scheduled game and supply one game ball for each home game.
- E. Teams from areas outside Kingsville, Riviera, Ricardo, or Sarita that do not have a Girls' softball league or Boys league may join the league if approved by the Board.

**SECTION III  
RULES AND REGULATIONS**

**RULE I  
TEXAS AMATEUR SOFTBALL ASSOCIATION (ASA)  
And  
PROTECT OUR NATIONS YOUTH (PONY)**

- A. PROTECT OUR NATIONS YOUTH (PONY)** regulations for girls/ boys slow-pitch/fastpitch softball and league will be followed. PONY rules governing all play will be those adopted by the playing rules committee of softball/baseball of the PONY Organization.
- B.** Additional rules and regulations may be adopted by the KPYSBL so long as such rules and regulations do not conflict with **ASA** and **PONY** rules and regulations.

**RULE II  
REGISTRATION**

- A.** No player may register without written consent from a parent or guardian.
- B.** Age divisions shall be comprised of players based on their age, on the first day of January of the current season:

**Bronco Division:** Twelve (12) years of age or under.

**Mustang Division:** Ten (10) years of age or under.

**Pinto Division:** Eight (8) years of age or under.

**Shetland Division:** Six (6) years of age or under.

**Foal Division:** Three (3)- Four (4) years of age.

Players will be allowed to play in one division per season per year. No double seasons will be permitted. Player's intent shall be made known at time of registration.

- C.** Proof of age shall consist of birth certificate, baptismal certificate, hospital certificate, driver's license, or court approved document. Birth certificates will be required for tournament play.

Players must establish eligibility within the age division they have registered to play for the league. Any player who is waived up a division cannot play down to a lower division for All-Star post-season play. Players request to be considered for the draft/player's agent list as "waivers" to the next league age level must be submitted in writing and signed by the

parent/guardian. League age waivers are extended to but limited to the discretion of parent / coach.

**Approval by the Board** will be based on the player's ability, maturity, and special circumstances or the needs of the KPYSBL.

**D. KPYSBL does not limit participation in**

**its league on the basis of disability.** A signed medical release from the player's attending physician shall include, but not be limited to, the following: specific medical identification of disability, equipment specification needed by the player, etc. Equipment required for play shall be the sole responsibility of the parent or guardian. Identified player(s) will be allowed to play a division lower on the extent of disability, as determined by the Board.

**\*E.** A maximum of three (3) Manager/Coaches' son/daughter options may be used on any one team during a season and such option(s) continues for duration of player's career within the division in which such option was exercised.

**Manager/Coach must participate in practices and games.**

**RULE III  
TEAMS**

**A.** A player shall become a member of a team only after paying the registration fee as set by the Board, filling out the proper registration forms, and having them accepted by the Board. A maximum of **2 hardship** cases per team can be presented to the Board for approval.

**B.** Each team shall have a **maximum of twelve (12) and a minimum of (10)** registered players at one time. Exception to these rules will be only allowed by approval by the Board.

**C. COMMUNITY TEAMS:** Community teams will not be allowed. All players must enter draft.

**D. No new** teams will be added after a date, which is two weeks prior to the first league game of the season. Exceptions to this rule may be granted by the Board under special circumstances that are deemed in the best interest of the league.

**E.** Team names shall bear no resemblance to religion or nationality. In general, team names will be determined by the team Manager and approved by the Board.

**RULE IV  
PLAYER AGENT'S LIST**

Prior to try-outs, the Player Agent shall make a list showing the names and numbers of each candidate. Prior to player draft, and after requirements that have been taken into consideration, a final player agent list of all players who are qualified as eligible candidates will be prepared before the draft takes place. This list must be maintained and is the basis for future player replacement. Parental requests to be released from a team to attend a new season try-out for the draft must be submitted in writing to the Player Agent.

**Player freeze or release must be submitted in writing at least 48 hours prior to the draft.**

## **RULE V** **TRY-OUTS**

During the try-outs, each candidate shall be given the opportunity to bat, field, throw, and run in competition with youngsters having the same league age. These try-out periods will be conducted in the presence of all managers, who shall observe the ability of each candidate. Neutral outside community members will observe and grade the candidates for draft. No gentlemen's agreement of any type will be permitted.

Team rotation, in regards to the draft, shall be randomly placed on a team according to the next team in the picking order after the official draft is over. The **player agent and the president / vice president and 1 other board member** shall oversee this procedure.

Each manager shall grade the candidate on the Player Agent's list for their own reference.

## **RULE VI** **DRAFT SYSTEM**

**A.** WHEN a thorough try-out program has been completed, a time and place specified by the Board to conduct division drafts will be given. Expanding teams will be placed first on the rotation for the draft selection. If more than one team is added, a drawing will be held to determine placement of teams. Core teams will be placed ahead of returning teams in the rotation schedule. Freezes in expansion teams will be included in the actual count. Freezes for core teams will be included as part of the core team selection, unless it applies to sister-option in existing division.

**For example:** Rotation will be as follows: Expanding Team(s), Core Team(s). Core teams and returning teams will be placed in draft rotation order in descending order according to prior year standings.

**B.** Number of registered players will establish the number of players per team as determined by the Player Agent based on a level-off formula (number of registered players/number of teams within the division). Drafted rounds will continue until the level-off mark and/or maximum number of players per team has been reached. Draft will consist of all players that registered prior to tryouts. Frozen players will be selected as 1st round picks with additional freezes in each round that follows.

**C.** The Player Agent will draft players for any team not represented at the draft. The identification numbers of all players within the division who participated in the tryouts will be placed in a hat. The Player Agent will draw numbers from the hat until the number of an un-drafted player is drawn.

**BROTHER/SISTER OPTION:** Managers may submit an option on brother/sisters who are subject to the draft. When 1<sup>st</sup> brother/sister is drafted and an option has been submitted, the manager automatically takes brother/sister on next turn. A manager may also submit an option on a draftee if a youngster's brother/sister is a member of that manager's team. This option must be exercised within the first-round draft selection.

**SON/DAUGHTER OPTION:** A manager, who has a son/daughter eligible for the draft, who wishes to draft them, must state so in writing to the Player Agent prior to the try-outs. The parent-manager is required to exercise this option as a 1st round draft pick. Parents of league players who become managers/coaches after their children have been selected to another same age division team may not automatically claim their sons/daughters but must trade for them at the proper time (see Player Trade).

If a team has more than one (1) coach, only the senior coach in service may qualify provided that senior member has served as a coach of record for that team for 1 or more years. New coaches should be appointed after the draft to avoid "red-shirting" of players through selective coaching appointments.

**DURATION OF TITLE (CAREER):** Each player acquired shall, for the duration of their age division career, be the property of the team making the acquisition, unless subsequently traded or released. The Board of Directors shall reserve the right to rule if a player shall continue as that team's acquisition or release such player to the draft or for placement by the player agent to the next available team according to team standings.

**SECRECY:** Players should never be told the position in which they were drafted.

**DURATION OF OPTIONS (FREEZES):** Manager/Coaches exercising options on son/daughters are limited to a total of three (3) options for manager/coaching staff and are held to such freezes for duration of player's career within the same age division or unless subsequently released by the Board to return to the draft or reassignment to a team by the Player Agent. When a core team moves up, freezes will remain in effect. If coach does not wish to exercise those options, players may then be released to another coach for a coach's option or released to the draft. Previous coaches' freezes will not count as core players when teams move up to a new division. **\*Should coach not participate in coaching this will make son/daughter an ineligible player for the remainder of the League Season.**

## **RULE VII** **PLAYER TRADE**

Following the draft, managers may if they desire, trade players before completion of the draft. All trades shall be made with the approval of the Player Agent and Board. All trades must be player for player only. Trades involving player for draft choice are not permitted.

Player trades will be limited to one trade per season. No team trades will be allowed after completion of the draft session. In addition, trades will be allowed only if the team is represented by an approved manager at the time/date of draft.

### **RULE VIII** **UMPIRES**

- A. A professional umpire will be used for all Shetland through Bronco Division games.
- B. Umpires shall at all times impose the rules and regulations as designated by the KPRYSBL and the ASA/PONY playing rules in general.
- C. Umpires shall at all times put great emphasis on the welfare of players and officiate the game in a manner inducing clean competition and good sportsmanship.
- D. Umpires shall maintain communication with the league's Umpire Coordinator.

### **RULE IX** **MANAGERS AND COACHES**

- A. All managers and coaches must submit a letter of intent to return to coaching for the next season **no later than Feb. 1<sup>st</sup> of the current year**. Then approval by the Board to manage, coach, and/or assist one team with a division in the KPYSBL will take place.
- B. It shall be the duty of each manager and coach to:
  - 1. Reflect an understanding of the age group they supervise.
  - 2. Be aware that they are an example to those whom they work.
  - 3. Demonstrate that they have an appreciation of the philosophy of the KPYSBL, and cooperate with others in making the program of mutual benefit to all youngsters.
  - 4. Show by example, that they respect the judgment and the position of authority of adult leaders in the league.
  - 5. Exercise their leadership role adequately but leave the baseball/softball game in the hands of the players.
  - 6. Within the regulations of the league, provide an opportunity for each youngster to participate.
  - 7. Encourage their players at every opportunity.
  - 8. Instill a desire to win and improve, striving to impart as much baseball/softball knowledge as possible to each player.
  - 9. Know the playing RULES and REGULATIONS of ASA/PONY and be able to interpret them correctly. Play by the rules and adhere to their intent, instilling in the players a respect for the judgment in protest situations.
  - 10. Are cautious and use sound, reasonable judgment in protest situations.
  - 11. Have had an opportunity to participate in a preparatory training program concerning their responsibilities before the start of the season and assignment to the team.
  - 12. At all times encourage clean competition and good sportsmanship in both players and spectators.
  - 13. Assume responsibility for any equipment issued to them and shall return same

when requested or at the end of the season or pay the replacement value of the equipment. **A \$00 deposit will be required for Equipment issued.**

**14.** At all times display respect to other team managers/coaches/players by not interfering with any team activities not directly involving his/her own team.

**15.** Assist league through volunteer work whenever tournament(s) is hosted by local league. This is required to maintain/establish status for consecutive season involvement. **Time to be a minimum of 4 hours of duty per tournament**, per manager and each member of the coaching staff, to be placed as needed by the Tournament Chairperson.

**16.** Mandatory attendance at All-Star selection meeting.

## **RULE X** **COMPETITION**

**A.** All competition shall be conducted in accordance with applicable rules as outlined in the current PONY rule book and/or ASA CODE and COMPETITION

PROCEDURAL CODE located within the Official Guide and Rulebook for PONY and ASA.

**B.** Line-up sheet will be turned to the official scorekeeper at least 15 minutes prior to game time.

**\*C. All players must be listed on batting line-up sheet and will bat.** All players must be present at game time. Players arriving late may be submitted to line-up as substitutes. Failure to field required number of players will result in a forfeit. (Fast pitch requires 9 players to start. Slow-pitch requires 10 players to start.)

**D.** All games will start at scheduled time. Official time will be kept by the official scorekeeper who will be located in the score booth. **Forfeit time is game time.**

**E. IN SLOWPITCH COMPETITION:** The time limit for all games will be 60 minutes or 6 innings, whichever comes first. An inning in progress at the expiration of 15 the 55 minutes will be completed, but a new inning cannot be started. **Tie games will be continued for a maximum of one inning after reaching the game time limit.**

**F. IN FASTPITCH COMPETITION:** The time limit for all games will be one (1) hour and twenty (20) minutes or 7 innings, whichever comes first. An inning in progress at the expiration time will be completed, but a new inning cannot be started after 1 hour and 15 minutes. Ties games will be continued for a maximum of one inning after reaching the game time limit.

**1.** 5 run limit per inning. If the seven run rule will not affect the outcome of the game, game time may be called.

**2.** A fifteen run rules will be applied after three innings of play. A ten run rule will be applied after five innings of play.

**3.** Each player on the team roster must play at least one (1) consecutive defensive inning and one (1) turn at bat. If a player does not play one consecutive defensive inning and one

consecutive offensive inning, then the player must start in the next game and play until at least one turn at bat.

4. In addition to the players, no more than three (3) of the following (team managers, coaches, scorekeepers) will be allowed in the dugout during the game.

5. Warm-up pitches will be as follows: 5 pitches or 1 minute maximum between innings.

6. If the ball slips from the pitcher's hands during her windup or during the backing, a ball is declared on the batter, the ball will be in play, and the runners may advance at their own risk.

7. Stealing of bases allowed. Base runner must wait until pitcher has released the pitched ball before attempting to steal a base.

8. Batter may advance on dropped 3rd strike if base is not occupied with less than two (2) outs. After two (2) outs, runner may advance even if 1st base is occupied. **For local league play, dropped 3 strike will apply in the Mustang Division.**

9. A designated player (DP) may be used for any player provided it is made known prior to the start of the game and the player's name is indicated on the lineup as one of the nine hitters in the batting order.

10. The name of the player for whom the DP is batting (Flex Player) will be placed in the tenth position in the lineup.

11. The starting player listed as the DP must remain in the same position in the batting order for the entire game. The DP and DP's substitute, or the substitute's replacement, may never play offense at the same time.

12. The DP may be substituted for at any time, whether by a pinch-hitter, pinch runner, or the Flex Player. If the starting DP is replaced on offense by the Flex Player, the DP will leave the game. If replaced by a substitute, the DP position remains in the lineup. A starting DP may re-enter one time, as long as the DP returns to the original position in the batting order.

If replaced by the Flex Player, this reduces the number of players from ten to nine. If the DP does not re-enter, the game may legally end with nine players.

If the DP re-enters and the Flex Player was batting in the DP spot, the Flex player returns to the number ten position and plays defense only or leaves the game.

13. The DP may play defense at any position. Should the DP play defense for a player other than the one for whom the DP is batting (Flex Player), that player will continue to bat but not play defense and is not considered to have left the game. The DP may play defense for the Flex Player and the Flex player is considered to have left the game, reducing the number of players from ten to nine. The Flex Player may re-enter the game under the re-entry rule.

14. The person being batted for (Flex Player) may be substituted for at any time, either by a legal substitute for the DP for whom the Flex Player is playing defense. The Flex Player may re-enter the game under the re-entry rule either in the number 10 position or in the DP's position in the batting

order.

If returning to the number 10 position, the Flex Player will again play offense and defense; there will be only nine players in the batting order.

If the Flex Player returns to the DP's position, the Flex Player will play offense and defense; there will be only nine players in the batting order.

**15.** Placing the Flex Player into one of the first nine positions for someone other than the original DP or the original DP's substitute is considered an ineligible player. The ineligible player shall be removed from the game. The Flex Player replacing the DP is not considered a substitute for the Flex Player. The DP, who has left the game, may re-enter the game under the re-entry rule.

**G. SHETLAND/FOAL DIVISION/PRE TEE-BALL DIVISION** will have the following rules.

**1.** Playing field specifications: Pitching distance is 35 feet, bases are 50 feet. A line 5 feet in front of 1st and 3rd base will be drawn perpendicular to the foul line. A 10 foot arc will be drawn from point of home plate between the foul lines. Except for the pitcher and catcher, no player can be closer than 45 feet from home plate until the ball is hit. A ball must travel on or beyond the 10 foot arc to be a fair ball.

**2.** Each batter will hit off a tee located tip to tip on home plate. The umpire will be responsible for the bat and the tee. Bats marked T-ball or T-bat as well as Softball bats are legal.

**Note: T-placement. When T is used, place T "tip to tip" to Home Plate.**

**3.** The batter may not swing until the pitcher has made a pitching motion from the pitching rubber.

**4. The batter will position themselves** in the batter's box and may address the ball as the umpire holds the ball on the tee. The umpire will ask the batter if they are ready and if so will remove his hand from the ball and gives the signal to play ball. **If the batter addresses the ball after this, a strike is called,** and the ball is dead.

**5.** Contact, even partially must be made with the ball. This will be an umpire's judgment call. A ball hit foul, or swung at and missed, even if the tee alone is hit, will be a strike. After two strikes, there will be unlimited foul balls allowed until one is hit fair or there is a strikeout by missing the ball or hitting the tee alone.

**6.** The pitcher will take position on the rubber, making an underhanded pitching motion while remaining in contact with the rubber until the ball is hit. Failure to do so will result in a dead ball unless hit fair. There are no intentional walks.

**7.** For safety reasons, it is better to have the catcher stand away from the batter until the batter has swung.

**8.** The umpire will keep the official count.

**9.** Base runners are not allowed to steal. They cannot leave the base until the ball is hit.

**10.** There is no infield fly rule.

11. When the ball is in possession of an infielder and the lead runner has stopped, time will be called by the umpire.

12. Appeals may be made following a play and before the pitcher has made a pitching motion.

13. The game consists of 4 runs per half inning. Any runs crossing the plate after the 4th run will not count unless the run limit has been lifted. Each half inning is over when 4 runs are scored, or 3 outs are made. A game will be 1 hour or 6 innings, whichever comes first. If a team is ahead by 9 runs after 4 innings or 5 runs after 5 innings, whichever comes first, game will be called. **If a game is tied at the end of 6 innings or at the end of full inning in which time has expired, then the run limit is lifted.**

14. Each team is allowed 3 members on the coaching staff: manager, coach, and business manager. On offense two of the staff can coach 1st and 3rd bases. On defense, no staff is allowed on the field while the ball is live. Only the coaching staff and players are allowed in the dugout.

H. In addition or in place of existing rules, the following rules will be followed in the

#### **PINTO DIVISION:**

1. One hour time limit or 6 innings, whichever comes first. If a team is ahead by 9 runs at the end of 4 innings or by 5 runs at the end of 5 innings, whichever occurs first will be the game.

2. Four (4) runs per inning per team. If a game is tied after 6 complete innings, then all succeeding innings will have no run limit.

3. When time expires and the game is tied, at the completion of that inning all subsequent innings will have no run limits.

4. Each batter is allowed 4 pitches. Umpires can call swinging strikes only and 3 will be an out. The 4th pitch, if hit foul is not an out. A player that hits a foul ball on the 4th pitch will continue to bat until ball is hit fair or 3rd strike is called by the umpire. Intentional walks are not allowed.

5. The infield fly rule is not in effect.

6. Bats marked T-Ball, T-Bat, or League are illegal.

7. No defensive player, except for the pitcher who must be parallel to and 3 feet from either side of the pitching rubber and the catcher who must be within the confines of the catcher's box, can be closer than 45 feet from the home plate. If in the umpire's judgment, these are not in effect to the pitch, no pitch will be called. There should be lines at 1st and 3rd base, but if not, then it will be the umpire's judgment.

8. Only the players and coaching staff whose names appear on the roster will be allowed in the dugout. Pinto teams may have up to four coaches on the coaching staff: Manager, business manager, and two coaches.

9. All other current PONY rules are in effect.

10. **PITCHING COACHES:** Each team will provide their own pitching coach.

The pitching distance is 35 feet. The ball must be delivered to the batter in a safe manner and no arch required. **The pitcher cannot communicate with their players while on the field; and also, cannot communicate with other coaches while the ball is alive, but can communicate on a dead ball.** If they do so, one warning will be given, and if it occurs again during the game, then the pitcher will be removed from the pitching

position for the remainder of the game. After the ball is hit fair, the pitcher must clear to the opposite side of the field that the ball is hit or move forward or back in order not to interfere. When the pitcher interferes with an offensive player, then the play stands. When the pitcher interferes unintentionally with a defensive player, then the umpire has an option to call a base runner out. If intentional interference, then the lead runner will be called out. Should a pitcher be hit with a batted ball, then no pitch will be called.

11. All other current PONY pitching rules are in effect.

## **RULE XI**

### **COMMUNICABLE DISEASE PROCEDURE**

Procedures for reducing the potential for transmission of infectious agents, should include, but not be limited to the following:

1. The bleeding must be stopped, the open wound covered, and if there is an excessive amount of blood on the uniform, it must be changed before the player may participate.
2. Routine use of gloves or other precautions to prevent skin and mucous-membrane exposure when contact with blood or other body fluids is anticipated.
3. Immediately wash hand and other skin surfaces if contaminated (in contact) with blood or other body fluids. Wash hands immediately after removing gloves.
4. Clean all contaminated surfaces and equipment with an appropriate disinfectant before competition resumes.
5. Practice proper disposal procedures to prevent injuries caused by needles, scalpels, and other sharp instrument or devices.
6. Although saliva has not been implicated in HIV transmission, to minimize the need for emergency mouth-to-mouth resuscitation, mouth pieces, resuscitation bags, or other ventilation devices should be available for use.
7. Athletic trainers/coaches with bleeding or oozing skin conditions should refrain from all direct athletic area until the condition resolves.
8. Contaminated towels should be properly disposed of/disinfected.
9. Follow acceptable guidelines in the immediate control of bleeding and when handling bleeding dressings, mouth guards, and other articles containing body fluids.
10. A player, coach, or umpire who is bleeding or who has blood on their uniform shall be prohibited from participating further in the game until appropriate treatment can be administered. If medical care or treatment is administered in a reasonable length of time, the individual will not have to leave the game. The length of time that is reasonable is left to the umpire's judgment.
11. Uniform violations will not be enforced if uniform change is required.
  - The umpire shall:
    - a. Stop the game immediately, call a coach, trainer, or other authorized person to the injured player and allow treatment.
    - b. Apply the rules of the game regarding substitution, and re-entry if necessary.

**RULE XII**  
**LEAGUE CONDUCT**

**KINGSVILLE PARKS AND RECREATION YOUTH BOYS/ GIRLS LEAGUE**  
**EXECUTIVE BOARD MEMBERS CODE OF CONDUCT**

1. The executive committee will convene to discuss infraction and determine the level of discipline, which could include but not be limited to- verbal warning, probation and/or immediate removal of board position. If infraction involves an executive committee member, the other executive committee members shall meet to discuss infraction and disciplinary actions. Next person in line will step in to still have an executive committee of 3. If removal from the board is determined, then the recommendation shall be presented to the entire board at a special meeting no earlier than 72 hrs from the meeting of the executive committee.
2. Board members shall conduct themselves in accordance with the spirit of KPYSBL whether on the field or off.
3. Board members, if ejected while coaching a game shall receive an automatic 2 week suspension and a hearing before the board at the next board meeting not to exceed 2 weeks from the ejection.
4. Board members shall, to the best of their abilities and knowledge, ensure the safety of the children of this league before, during and after games including practices and all KPYSBL approved activities.
5. Board members shall be accountable to their board position responsibilities and shall also be responsible for any KPYSBL commitments they are assigned. In the event that a board member cannot follow through on their assignments, it will be that board member's responsibility to ensure that their assignment is covered by another suitable replacement.

**B. MANAGERS AND COACHES:**

1. Profane or abusive language, racial or ethnic remarks, obscene gestures, smoking on the field or in the dugout, consumption of alcoholic beverages prior to or during league functions, use of illegal drugs, or any violation of Rule IX (B) will result in indefinite suspension from all league activities as determined by the Board.
2. Remarks directed at opposing team manager/coaches/players for the purpose of obvious intent to distract players will not be permitted. Foul or rude language or unsportsmanlike conduct by manager/coach will result in the following penalties:
  - a. 1st Offense: Warning to manager/coach by umpire and league official in charge.
  - b. 2nd Offense: Forfeit of game, with win to be awarded to opposing team and official reprimand as determined by the Board.
3. Remarks directed at league officials will not be permitted and will result in official reprimand as determined by the Board.
4. Ejection from the game by an umpire for any reason:
  - a. 1st Offense: A minimum of 2 weeks suspension from all league activities. (A manager or coach is not allowed in vicinity of team dugout 15 minutes prior to game and during game while on suspension.) Violation of this rule will result in an immediate suspension from all activities.

- b. 2nd Offense: Indefinite suspension from all league activities.
- 5. Any manager or coach or scorekeeper who knowingly violates any of the Rules and Regulations is subject to reprimand or suspension by the Board. A second reprimand during a season will result in dismissal of the manager, coach, or scorekeeper by a vote of the Board.

#### C. PLAYER:

- 1. **USE OF EQUIPMENT:** Any batter throwing a helmet at any time or throwing a bat on the 2nd offense will be ejected from the game for unsportsmanlike conduct.
- 2. Profane or abusive language, racial or ethnic remarks, obscene gestures, smoking during a game on the field or in the dugout, consumption of alcoholic beverages prior to or during league functions, or use of illegal drugs will result in indefinite suspension from all league activities as determined by the Board.
- 3. Remarks directed at opposing team manager/coach/players for the purpose of obvious intent to distract players will not be permitted. Foul or rude language or unsportsmanlike conduct by players will result in the following penalties:
  - a. 1st Player/Team Offense: Warning to player by umpire/league official in charge.
  - b. 2nd Player/Team Offense: Ejection of player from game.
  - c. 3rd Player/Team Offense: Forfeit of game with win to be awarded to opposing team.

#### D. SPECTATORS:

- 1. Use of profane or abusive language, racial, or ethnic remarks, obscene gestures, smoking during a game on the field or in the dugout, consumption of alcoholic beverages prior to or during league functions, use of illegal drugs will result in the following penalties.
  - a. 1st Offense: Warning to spectator(s) from official and/or Board Member in charge in the press box.
  - b. 2nd Offense: Removal of spectator(s) and/or forfeit of game with win to be awarded to opposing team.
- 2. Remarks directed at opposing team manager/coach/players for the purpose of obvious intent to distract players will not be permitted. Foul or rude language or use of sportsman like conduct by spectator(s) will result in the following penalties.
  - a. 1st Offense: Warning to spectator(s) by umpire/league official in charge.
  - b. 2nd Offense: Forfeit of game with win to be awarded to opposing team.

E. Each umpire/official has the authority to rule on any point not specifically covered in these rules.

### **RULE XIII** **PROTESTS**

All protests of a game will be made by a Manager to the Umpire in accordance with PONY rules. The scorekeeper will note that the game was played under protest. The Manager protesting the game must submit the protest in writing **to the President or Board member in charge within 24 hours**. All legitimate protests will be ruled on by a vote of the Board. A filing fee of \$25.00 must accompany all protests. The fee will be returned

only if the Board rules in favor of the protest.

**RULE XIV  
FORFEITS**

**Team manager/coaches failing to notify the proper officials of possible forfeit or failing to show up at game time, will be assessed a penalty fee equal to, but not exceeding, expenses incurred by the league for umpire fees paid out resulting from lack of notification. Such notification must be given 24 hours prior to game time. Payment of penalty fee is required prior to next game. Failure to reimburse league will result in forfeit of next game.**

**RULE XV  
PRACTICES**

- A. Practices will be allowed provided the participant is a returning registered player from the prior season.**
- B. Practice times, fields, etc., are the responsibility of the manager/coach providing offseason play.**
- C. Players will not be left without adult supervision during practice. After practice is over, Managers will not leave until all players have been picked up from practice.**

**RULE XVI  
DIVISION CHAMPIONSHIP**

Division championships will be based on standings of regular league games. If two teams are tied for first place, but agreed upon as to determine first place tournament manager/coach, ties will remain and teams will be declared co-winners. If manager/coach cannot be determined at the end of the season, first tie breaker will be head to head standings. If still unable to determine division champion, a single playoff game (seven innings, no time limit) will be required to determine the first place winner. If more than two teams are tied for first, a round robin playoff will be used to determine the final places.

**RULE XVII  
PLAYING FIELDS AND BALL SIZE**

| <b><u>DIVISION</u></b> | <b><u>BASE LENGTH</u></b> | <b><u>PITCHING DISTANCE</u></b> | <b><u>BALL SIZE</u></b> |
|------------------------|---------------------------|---------------------------------|-------------------------|
| Foal                   | 50 Feet                   | 35 Feet                         | 11 Inches               |
| Shetland               | 50 Feet                   | 35 Feet                         | 11 Inches               |
| Pinto                  | 50 Feet                   | 35 Feet                         | 11 Inches               |
| Mustang                | 60 Feet                   | 35 Feet                         | 11 Inches               |
| Bronco                 | 60 Feet                   | 40 Feet                         | 12 Inches               |

## RULE XVIII

### SCOREKEEPING AND ANNOUNCING

Each team **must provide** an adult volunteer (**at least 17 years of age**) to work in the press box 15 minutes prior to game time. Failure to provide one will result in a forfeit. Only the league official will communicate with the umpire, manager, or coach on the playing field during a game in progress. All volunteers must remain neutral while working in the press box. **Home team provides official scorekeeper. Visiting team provides electronic scoreboard keeper and marks the field.** Workday will be held to explain how to do things.

## RULE XIX

### ALL-STAR TEAMS

#### ALL-STAR SELECTION

**All-Star selection will be overseen by the President, Player Agent and 1 additional board member.**

1. First place team manager will coach the All-Star Team. If not able or willing, the coach will be selected in descending order of standing within the division.
2. All-Stars will be selected by team managers or acting managers. The team will consist of a roster of up to 15 players as determined by the All-Star manager. Each manager will nominate up to 7 players from their team.
3. Each manager will vote for up to 15 players that were nominated and submit ballot. Top vote getters will constitute the All-Star team for that division.
- \*4. Team managers will make every effort to vote fairly for players based on player attitude, playing ability, sportsmanship, playing positions, attendance and participation of all practices and games.**
- 5. All-Star Managers will break all ties if/when necessary.**
- \*6. In order to obtain All-Star eligibility, players shall be required to raise a minimum of \$00 in the league fundraiser.**

RULE XX

ALL-STAR TEAM FINANCIAL GUIDELINES

KINGSVILLE PARKS AND RECREATION YOUTH Baseball Softball LEAGUE WILL ONLY PAY PONY REGISTRATION FEE AND UNIFORM TOP FOR ALLSTARS.

**Note: Verbal complaints, notifications, agreements will be hear say, but not acted upon without such being in written form and in possession of the League President or his/her designee. All consents of parents or legal guardians for participation of a player in non-league tournament play should be in writing and filed with the player agent of the KINGSVILLE PARKS YOUTH BASEBALL/SOFTBALL LEAGUE.**

**RESOLUTION #2020-\_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KINGSVILLE AUTHORIZING THE PARKS DEPARTMENT TO SPONSOR THE YOUTH BASEBALL/SOFTBALL LEAGUE.**

**WHEREAS**, the youth baseball and softball league in Kingsville needs a new sponsoring entity;

**WHEREAS**, the Kingsville Parks Advisory Board has recommended that the Parks Department oversee the registration, pay bills and implement a Board of Directors to oversee the League;

**WHEREAS**, the City of Kingsville would like to implement such a program for its Parks Department;

**WHEREAS**, staff has prepared a proposed budget for the anticipated revenues and expenditures and believes this program would be of benefit to the community.

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission authorizes the Parks Department to sponsor the Youth Baseball/Softball League and to administer such program and execute forms that may be necessary for such program.

II.

**THAT** this Resolution shall be and become effective on or after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 13th day of January, 2020.

\_\_\_\_\_  
Sam R. Fugate

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #4**

**City of Kingsville  
Parks & Recreation**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Susan Ivy, Parks Director  
**SUBJECT:** Request Approval for Kingsville Parks to sponsor Youth Baseball/Softball League

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**Summary:** Kingsville Parks is requesting approval to sponsor the Kingsville Parks Youth Baseball and Softball League.

**Background:** The youth baseball and softball league in Kingsville needs a new sponsoring entity. With several private organizations struggling over the last several years to provide clean accounting, standardized rules and communication with parents, coaches and umpires, Kingsville Parks Advisory Board has recommended that the Parks Department oversee the registration, pay bills and implement a Board of Directors to oversee the League. A statement is attached providing additional details of the operation of the league.

**Financial Impact:** While we do not know at this time what registrations will be or what exact expenses will be, we are certain that we can pay for league expenses and some field operational expenses with some additional fundraising and sponsorships and hope to accrue some funds for field improvements.

**Recommendation:** I respectfully request that City Commission approve the for Parks Department to sponsor the Kingsville Parks Youth Baseball & Softball League and the associated budget amendment to set up anticipated revenues and expenditures.



**ORDINANCE NO. 2020-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2019-2020 BUDGET TO SETUP THE BUDGET FOR THE NEW PARKS DIVISION FOR THE YOUTH BASEBALL/SOFTBALL LEAGUE TO BE RUN BY THE CITY OF KINGSVILLE.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2019-2020 budget be amended as follows:

**CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT**

| <b>Dept No.</b>   | <b>Dept Name</b> | <b>Account Name</b>       | <b>Account Number</b> | <b>Budget Increase</b> | <b>Budget Decrease</b> |
|---|------------------|---------------------------|-----------------------|------------------------|------------------------|
| <b>Fund 001 – General Fund</b>  |                  |                           |                       |                        |                        |
| <b>Revenues - 4</b>   |                  |                           |                       |                        |                        |
| 4514  | Softball League  | League Fees               | 58058                 | \$14,060               |                        |
| 4514  | Softball League  | Donations/Sponsorships    | 58003                 | \$15,000               |                        |
| 4514  | Softball League  | Concession Revenue        | 58056                 | \$3,500                |                        |
| <i>Note: There is currently \$14,500 budgeted in Division 4513 that will be transferred for a total of \$47,060</i> |                  |                           |                       |                        |                        |
| <b>Expenditures - 5</b>   |                  |                           |                       |                        |                        |
| 4514  | Softball League  | Minor Equipment           | 21700                 | \$6,900                |                        |
| 4514  | Softball League  | Uniforms                  | 21200                 | \$20,160               |                        |
| 4514  | Softball League  | Professional Svcs-Umpires | 31400                 | \$5,000                |                        |
| 4514  | Softball League  | Memberships               | 31700                 | \$3,000                |                        |
| 4514  | Softball League  | Insurance                 | 33500                 | \$2,000                |                        |
| <i>Note: There is currently \$10,000 budgeted in Division 4513 that will be transferred for a total of \$47,060</i> |                  |                           |                       |                        |                        |

[To amend the City of Kingsville FY 19-20 Budget to setup the budget for the new Parks division for the youth baseball/softball league to be run by the City of Kingsville. Funding will come from the current budget transferred in from division 4513 and revenues expected from league operations.]

ORDINANCE NO. 2020-\_\_\_\_\_

PALS  
↑

**AN ORDINANCE AMENDING THE FISCAL YEAR 2019-2020 BUDGET TO SETUP THE BUDGET FOR THE NEW DIVISION FOR THE SOFTBALL LEAGUE TO BE RUN BY THE CITY OF KINGSVILLE.**

Youth Baseball

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2019-2020 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT

| Dept No.  | Dept Name       | Account Name              | Account Number | Budget Increase | Budget Decrease |
|---|-----------------|---------------------------|----------------|-----------------|-----------------|
| <b>Fund 001 – General Fund</b>  |                 |                           |                |                 |                 |
| <b>Revenues - 4</b>   |                 |                           |                |                 |                 |
| 4514  | Softball League | League Fees               | 58058          | \$14,060        |                 |
| 4514  | Softball League | Donations/Sponsorships    | 58003          | \$15,000        |                 |
| 4514  | Softball League | Concession Revenue        | 58056          | \$3,500         |                 |
| <i>Note: There is currently \$14,500 budgeted in Division 4513 that will be transferred for a total of \$47,060</i> |                 |                           |                |                 |                 |
| <b>Expenditures - 5</b>   |                 |                           |                |                 |                 |
| 4514  | Softball League | Minor Equipment           | 21700          | \$6,900         |                 |
| 4514  | Softball League | Uniforms                  | 21200          | \$20,160        |                 |
| 4514  | Softball League | Professional Svcs-Umpires | 31400          | \$5,000         |                 |
| 4514  | Softball League | Memberships               | 31700          | \$3,000         |                 |
| 4514  | Softball League | Insurance                 | 33500          | \$2,000         |                 |
| <i>Note: There is currently \$10,000 budgeted in Division 4513 that will be transferred for a total of \$47,060</i> |                 |                           |                |                 |                 |

[To amend the City of Kingsville FY 19-20 Budget to setup the budget for the new division for the softball league to be run by the City of Kingsville. Funding will come from the current budget transferred in from division 4513 and revenues expected from league operations.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 13th day of January 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

**EFFECTIVE DATE:** \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #5**

**City of Kingsville**  
**Finance Department**

---

TO: Mayor and City Commissioners

CC: Mark McLaughlin City Manager

FROM: Charlie Sosa, Purchasing Manager

DATE: December 19, 2019

SUBJECT: Purchase of an Articulating Dump Truck for Land Fill

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**Summary:** This item authorizes the entering into a public property finance contract with Government Capital Corporation to purchase a John Deere Articulating Dump Truck from Doggett Equipment, through Buyboard Purchasing Cooperative Contract 515-16 for the City of Kingsville Sanitation Department.

**Background:**

The existing earth moving equipment is a 2008 Caterpillar 615C that has gone through extensive repairs and is very costly to the sanitation department. The existing equipment is in dire need of repairs/replacement and is at the end of its efficient lifespan thus increasing maintenance and operation expenses. The purchase of 1 (one) Articulating Dump Truck will help in daily covering at the landfill and reduce maintenance cost. It is recommended the City Purchase the Articulating Dump Truck with Doggett Equipment of 134 North Padre Island Drive, Corpus Christi, Texas 78406, through Buyboard Contract 515-16. Buyboard is a member of the Purchasing Cooperative which meets Local government code 271 Subchapter F allows for the use of a cooperative purchasing program, specifically 271.102 (c), states, "A local government that purchases good and service under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of goods and service." Therefore, competitive bidding statutes have been met.

**Financial Impact:**

Funds are available through 087-5-1702-64200 Capital Lease Principal, Year One of which \$40,405.27 and 087-5-1702-64201 Capital Lease Interest Year One of which \$10,897.31 are available this fiscal year. The amount of the trucks will be \$359,118.06 over seven years at an annual amount of \$51,302.58 for the first year, please refer to contract attached and Exhibit B Schedule of payments.

**Recommendation:**

It is recommended the City enter into a public property finance contract with Government Capital Corporation to cover the purchase of a John Deere Articulating Dump Truck. Doggett Equipment of 134 North Padre Island Drive, Corpus Christi, Texas 78406, through Buyboard Contract 515-16. Buyboard is a member of the Purchasing Cooperative which meets Local government code 271 Subchapter F allows for the use of a cooperative purchasing program, specifically 271.102 (c), states, "A local government that purchases good and service under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of goods and service." Therefore, competitive bidding statutes have been met.





City of Kingsville, TX

# Budget Report Account Summary

For Fiscal: 10/2019-09/2020 Period Ending: 01/31/2020

|  | Original<br>Total Budget | Current<br>Total Budget | Period<br>Activity | Fiscal<br>Activity | Encumbrances | Variance<br>Favorable<br>(Unfavorable) | Percent<br>Remaining |
|--|--------------------------|-------------------------|--------------------|--------------------|--------------|--|----------------------|
| <b>Fund: 087 - SOLID WASTE-CAP PROJECTS</b>        |                          |                         |                    |                    |              |  |                      |
| <b>Expense</b>                                     |                          |                         |                    |                    |              |  |                      |
| 087-5-1702-22000 Rollouts & Dumpsters              | 71,900.00                | 71,900.00               | 0.00               | 33,240.00          | 0.00         | 38,660.00                              | 53.77 %              |
| 087-5-1702-41100 Vehicle Maintenance               | 77,000.00                | 77,000.00               | 0.00               | -87.04             | 0.00         | 77,087.04                              | 100.11 %             |
| 087-5-1702-64200 Capital Lease - Principal         | 119,687.00               | 119,687.00              | 0.00               | 0.00               | 0.00         | 119,687.00                             | 100.00 %             |
| 087-5-1702-64201 Capital Lease - Interest          | 26,842.00                | 26,842.00               | 0.00               | 0.00               | 0.00         | 26,842.00                              | 100.00 %             |
| 087-5-1702-71200 Machinery/Equipment               | 314,044.00               | 314,044.00              | 0.00               | 0.00               | 0.00         | 314,044.00                             | 100.00 %             |
| <b>Expense Total:</b>                              | <b>609,473.00</b>        | <b>609,473.00</b>       | <b>0.00</b>        | <b>33,152.96</b>   | <b>0.00</b>  | <b>576,320.04</b>                      | <b>94.56 %</b>       |
| <b>Fund: 087 - SOLID WASTE-CAP PROJECTS Total:</b> | <b>609,473.00</b>        | <b>609,473.00</b>       | <b>0.00</b>        | <b>33,152.96</b>   | <b>0.00</b>  | <b>576,320.04</b>                      | <b>94.56 %</b>       |
| <b>Report Total:</b>                               | <b>609,473.00</b>        | <b>609,473.00</b>       | <b>0.00</b>        | <b>33,152.96</b>   | <b>0.00</b>  | <b>576,320.04</b>                      | <b>94.56 %</b>       |

## Group Summary

| Account Type                                       | Original<br>Total Budget | Current<br>Total Budget | Period<br>Activity | Fiscal<br>Activity | Encumbrances | Variance                   |                      |
|--|--------------------------|-------------------------|--------------------|--------------------|--------------|----------------------------|----------------------|
|  |                          |                         |                    |                    |              | Favorable<br>(Unfavorable) | Percent<br>Remaining |
| Fund: 087 - SOLID WASTE-CAP PROJECTS<br>Expense    | 609,473.00               | 609,473.00              | 0.00               | 33,152.96          | 0.00         | 576,320.04                 | 94.56 %              |
| <b>Fund: 087 - SOLID WASTE-CAP PROJECTS Total:</b> | <b>609,473.00</b>        | <b>609,473.00</b>       | <b>0.00</b>        | <b>33,152.96</b>   | <b>0.00</b>  | <b>576,320.04</b>          | <b>94.56 %</b>       |
| <b>Report Total:</b>                               | <b>609,473.00</b>        | <b>609,473.00</b>       | <b>0.00</b>        | <b>33,152.96</b>   | <b>0.00</b>  | <b>576,320.04</b>          | <b>94.56 %</b>       |

### Fund Summary

| Fund                         | Original<br>Total Budget | Current<br>Total Budget | Period<br>Activity | Fiscal<br>Activity | Encumbrances | Variance                   |                      |
|------------------------------|--------------------------|-------------------------|--------------------|--------------------|--------------|----------------------------|----------------------|
|                              |                          |                         |                    |                    |              | Favorable<br>(Unfavorable) | Percent<br>Remaining |
| 087 - SOLID WASTE-CAP PROJEC | 609,473.00               | 609,473.00              | 0.00               | 33,152.96          | 0.00         | 576,320.04                 | 94.56 %              |
| <b>Report Total:</b>         | <b>609,473.00</b>        | <b>609,473.00</b>       | <b>0.00</b>        | <b>33,152.96</b>   | <b>0.00</b>  | <b>576,320.04</b>          | <b>94.56 %</b>       |

**RESOLUTION #2019- 106**

**A RESOLUTION REGARDING A CONTRACT FOR THE PURPOSE OF FINANCING "HEAVY EQUIPMENT" THROUGH GOVERNMENT CAPITAL CORPORATION; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville, Texas (the "Issuer" or "City") desires to enter into a certain Finance Contract by and between the Issuer and Government Capital Corporation ("GCC") for the purpose of financing "Heavy Equipment" and desires to designate this Finance Contract as a "qualified tax exempt obligation" of the Issuer for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the City will locate the needed equipment through a purchasing cooperative program to be in compliance with Texas procurement law;

**WHEREAS**, the City will then negotiate a Finance Contract with GCC for the equipment, which will be brought to Commission for approval.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**THAT**, once terms of a mutually agreeable Finance Contract have been negotiated between the City and GCC for the purpose of financing "Heavy Equipment", the City will consider a resolution to approve the Finance Contract.

**THAT**, the City intends that the Finance Contract by and between the City and GCC will be designated by the Issuer as a "qualified tax exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

**THAT**, once terms of a mutually agreeable Finance Contract have been negotiated between the City and GCC, the City intends to consider an authorizing resolution to appoint the City Manager or their designee, as the authorized signer of the Finance Contract by and between the City and GCC as well as any other ancillary exhibit, certificate, or documentation needed for the Contract.

**THAT**, once terms of a mutually agreeable Finance Contract have been negotiated between the City and GCC, the City intends to consider an authorizing resolution stating that should the need arise, if applicable, the City will use loan proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation Section 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**THAT** this Resolution shall be and become effective on and after adoption.

**THAT** this resolution was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 9th day of December, 2019.

  
\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Courtney Alvarez, City Attorney

General Funds

For Fiscal: 10/2018-09/2019 Period Ending: 09/30/2019

| Division: 1702 - Sanitation Collection |   | 2017           | 2018           | 2019            | 2019                   | 2019         | 2019            | 2020                  | 2020                    |
|--|---|----------------|----------------|-----------------|------------------------|--------------|-----------------|-----------------------|-------------------------|
| Category: 20 - Supplies                |   | Total Activity | Total Activity | Original Budget | Total Budget (Amended) | YTD Activity | Expected Annual | City Manager Proposed | City Commission Adopted |
| 087-5-1702-22000                       |   | 44,301.11      | 71,900.00      | 71,900.00       | 71,900.00              | 71,698.00    | 71,900.00       | 71,900.00             | 71,900.00               |
| Budget Detail                          |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Code                            | Rollouts & Dumpsters                          |                | 71,900.00      | 71,900.00       | 71,900.00              | 71,698.00    | 71,900.00       | 71,900.00             | 71,900.00               |
| City Manager                           | Description                                   | Units          | Amount         |                 |                        |              |                 |                       |                         |
|  | Replacement Rollouts & Dumpsters              | 0.00           | 71,900.00      |                 |                        |              |                 |                       |                         |
| Category: 20 - Supplies Total:         |   | 44,301.11      | 71,900.00      | 71,900.00       | 71,900.00              | 71,698.00    | 71,900.00       | 71,900.00             | 71,900.00               |
| 087-5-1702-41100                       |   | 0.00           | 77,856.10      | 77,000.00       | 77,000.00              | 46,539.97    | 77,000.00       | 77,000.00             | 77,000.00               |
| Budget Detail                          |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Code                            | Vehicle Maintenance                           |                | 77,856.10      | 77,000.00       | 77,000.00              | 46,539.97    | 77,000.00       | 77,000.00             | 77,000.00               |
| City Manager                           | Description                                   | Units          | Amount         |                 |                        |              |                 |                       |                         |
|  | Sanitation Vehicle Maintenance                | 0.00           | 77,000.00      |                 |                        |              |                 |                       |                         |
| Category: 40 - Repairs Total:          |   | 0.00           | 77,856.10      | 77,000.00       | 77,000.00              | 46,539.97    | 77,000.00       | 77,000.00             | 77,000.00               |
| 087-5-1702-64200                       |   | 0.00           | 0.00           | 82,330.00       | 82,330.00              | 82,857.82    | 82,858.00       | 119,687.00            | 119,687.00              |
| Budget Notes                           |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Code                            | Capital Lease - Principal                     |                | 0.00           | 82,330.00       | 82,330.00              | 82,857.82    | 82,858.00       | 119,687.00            | 119,687.00              |
| City Manager                           | Description                                   |                |                |                 |                        |              |                 |                       |                         |
|  | Articulated Dump Truck Lease Schedule         |                |                |                 |                        |              |                 |                       |                         |
| Category: 60 - Leases                  |   |                |                |                 |                        |              |                 |                       |                         |
| 087-5-1702-64201                       |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Detail                          |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Code                            | Capital Lease Schedule                        |                |                |                 |                        |              |                 |                       |                         |
| City Manager                           | Description                                   | Units          | Price          | Amount          |                        |              |                 |                       |                         |
|  | (1) Commercial (2) Residential Garbage Trucks | 0.00           | 0.00           | 79,183.00       |                        |              |                 |                       |                         |
|  | Articulated Dump Truck                        | 0.00           | 0.00           | 40,504.00       |                        |              |                 |                       |                         |
| Category: 5-1702-64201                 |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Detail                          |   |                |                |                 |                        |              |                 |                       |                         |
| Budget Code                            | Capital Lease - Interest                      |                | 0.00           | 13,048.00       | 13,048.00              | 12,420.97    | 12,421.00       | 26,842.00             | 26,842.00               |
| City Manager                           | Description                                   |                |                |                 |                        |              |                 |                       |                         |
|  | Articulated Dump Truck                        |                |                |                 |                        |              |                 |                       |                         |



### Fund Summary

| Fund                         | Original<br>Total Budget | Current<br>Total Budget | Period<br>Activity | Fiscal<br>Activity | Encumbrances | Variance                   |                      |
|------------------------------|--------------------------|-------------------------|--------------------|--------------------|--------------|----------------------------|----------------------|
|                              |                          |                         |                    |                    |              | Favorable<br>(Unfavorable) | Percent<br>Remaining |
| 087 - SOLID WASTE-CAP PROJEC | 314,044.00               | 314,044.00              | 0.00               | 0.00               | 0.00         | 314,044.00                 | 100.00 %             |
| <b>Report Total:</b>         | <b>314,044.00</b>        | <b>314,044.00</b>       | <b>0.00</b>        | <b>0.00</b>        | <b>0.00</b>  | <b>314,044.00</b>          | <b>100.00 %</b>      |





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**VENDOR CONTRACT ASSIGNMENT INFORMATION**

**Proposal Name:** Construction Equipment, Road and Bridge Equipment, Ditching, Trenching, Utility and Other Equipment

**Proposal Opening Date and Time:**  
April 19, 2016 at 2:00 PM

**Proposal Number:** 515-16

**Location of Proposal Opening:**  
Texas Association of School Boards, Inc.  
BuyBoard Department  
12007 Research Blvd.  
Austin, TX 78759

**Contract Time Period:** November 1, 2016 through October 31, 2017 with two (2) possible one-year renewals.

**Anticipated Cooperative Board Meeting Date:**  
September 2016

Doggett Heavy Machinery Services, LLC      2/16/17  
Name of Proposing Company      Date

9111 North Freeway        
Street Address      Signature of Authorized Company Official

Houston TX 77037      William Doggett  
City, State, Zip      Printed Name of Authorized Company Official

713-699-6556      General Counsel  
Telephone Number of Authorized Company Official      Position or Title of Authorized Company Official

\_\_\_\_\_  
Fax Number of Authorized Company Official      Federal ID Number

The proposing company ("you" or "your") hereby acknowledges and agrees as follows:

1. You have carefully examined and understand all Cooperative information and documentation associated with this Proposal Invitation, including the Instructions, General Terms and Conditions, Attachments/Forms, Item Specifications, and Line Items (collectively "Requirements");
2. By your response ("Proposal") to this Proposal Invitation, you propose to supply the products or services submitted at the prices quoted in your Proposal and in strict compliance with the Requirements, unless specific deviations or exceptions are noted in the Proposal;
3. Any and all deviations and exceptions to the Requirements have been noted in your Proposal and no others will be claimed;



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4. If the Cooperative accepts any part of your Proposal and awards you a contract, you will furnish all awarded products or services at the prices quoted and in strict compliance with the Requirements (unless specific exceptions are noted in the Proposal), including without limitation the Requirements related to:
  - a. conducting business with Cooperative members, including offering pricing to members that is the best you offer compared to similar customers;
  - b. payment of a service fee in the amount specified and as provided for in this Proposal Invitation;
  - c. the **possible** award of a piggy-back contract by another governmental entity, in which event you will offer the awarded goods and services in accordance with the Requirements; and
  - d. submitting price sheets or catalogs in the proper format for posting on the BuyBoard as a prerequisite to activation of your contract;
5. You have clearly identified any information in your Proposal that you believe to be confidential or proprietary or that you do not consider to be public information subject to public disclosure under a Texas Public Information Act request or similar public information law;
6. The individual signing this Agreement is duly authorized to enter into the contractual relationship represented by this Proposal Invitation on your behalf and bind you to the Requirements, and such individual (and any individual signing a Form) is authorized and has the requisite knowledge to provide the information and make the representations and certifications required in the Requirements;
7. You have carefully reviewed your Proposal, and certify that all information provided is true, complete and accurate, and you authorize the Cooperative to take such action as it deems appropriate to verify such information; and
8. Any misstatement, falsification, or omission in your Proposal, whenever or however discovered, may disqualify you from consideration for a contract award under this Proposal Invitation or result in termination of an award or any other remedy or action provided for in the General Terms and Conditions or by law.



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**VENDOR PURCHASE ORDER, REQUEST FOR QUOTES, AND INVOICE RECEIPT OPTIONS**

Company: Doggett Heavy Machinery Services, LLC General Contact Name: BRAD PENICK

**Purchase Orders:** Purchase orders from Cooperative members will be available through the Internet or by facsimile.

Option 1: Internet. Vendors need Internet access and at least one e-mail address so that notification of new orders can be sent to the Internet contact when a new purchase order arrives. An information guide will be provided to vendors that choose this option to assist them with retrieving their orders.

Option 2: Fax. Vendors need a designated fax line available at all times to receive purchase orders.

Please choose only one (1) of the following options for receipt of purchase orders and provide the requested information:

I will use the **INTERNET** to receive purchase orders.  
E-mail Address: brad.penick@doggett.com  
Internet Contact: Brad Penick Phone: 956-787-0001  
Alternate E-mail Address: tony.barreto@doggett.com  
Alternate Internet Contact: TONY Barreto Phone: 956-787-0001

I will receive purchase orders via **FAX**.  
Fax Number: \_\_\_\_\_  
Fax Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

**Request for Quotes ("RFQ"):** Cooperative members will send RFQs to you by e-mail. Please provide e-mail addresses for the receipt of RFQs:

E-mail Address: brad.penick@doggett.com  
Alternate E-mail Address: tony.barreto@doggett.com

**Invoices:** Your company will be billed monthly for the service fee due under a contract awarded under this Proposal Invitation. **All invoices are available on the BuyBoard website and e-mail notifications will be sent when they are ready to be retrieved.** Please provide the following address, contact and e-mail information for receipt of service fee invoices and related communications:

Mailing address: 10110 Paradale Ave. Department: AP  
City: Baton Rouge State: LA Zip Code: 70816  
Contact Name: Sheri Nagin Phone: 225-368-2215  
Fax: N/A E-mail Address: sheri.nagin@doggett.com  
Alternative E-mail Address: Kim.Langlois@doggett.com



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**FELONY CONVICTION DISCLOSURE AND DEBARMENT CERTIFICATION**

**FELONY CONVICTION DISCLOSURE**

Subsection (a) of Section 44.034 of the Texas Education Code (Notification of Criminal History of Contractor) states: "A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Section 44.034 further states in Subsection (b): "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Please check (✓) one of the following:

- My company is a publicly-held corporation. (Advance notice requirement does not apply to publicly-held corporation.)
- My company is not owned or operated by anyone who has been convicted of a felony.
- My company is owned/operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): N/A

Details of Conviction(s): N/A

By signature below, I certify that the above information is true, complete and accurate and that I am authorized by my company to make this certification.

Doggett Heavy Machinery Services, LLC  
Company Name

[Signature]  
Signature of Authorized Company Official

William Doggett  
Printed Name

**DEBARMENT CERTIFICATION**

Neither my company nor an owner or principal of my company has been debarred, suspended or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension," as described in the Federal Register and Rules and Regulations.

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Doggett Heavy Machinery Services, LLC  
Company Name

William Doggett  
Signature of Authorized Company Official

[Signature]  
Printed Name





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## HISTORICALLY UNDERUTILIZED BUSINESS CERTIFICATION

A proposer that has been certified as a Historically Underutilized Business (also known as a Minority/Women Business Enterprise or "MWBE" and all referred to in this form as a "HUB") is encouraged to indicate its HUB certification status when responding to this Proposal Invitation. The electronic catalogs will indicate HUB certifications for vendors that properly indicate and document their HUB certification on this form.

Please check (√) all that apply

- I certify that my company has been certified as a HUB in the following categories:
- Minority Owned Business**
  - Women Owned Business**
  - Service-Disabled Veteran Owned Business (veteran defined by 38 U.S.C. §101(2), who has a service-connected disability as defined by U.S.C. § 101(16), and who has a disability rating of 20% or more as determined by the U. S. Department of Veterans Affairs or Department of Defense)**

**Certification Number:**

\_\_\_\_\_

**Name of Certifying Agency:**

\_\_\_\_\_

- My company has **NOT** been certified as a HUB.

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Doggett Heavy Machinery Services, LLC  
Company Name

[Signature]  
Signature of Authorized Company Official

William Doggett  
Printed Name



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**AFFIRMATION REGARDING CONSTRUCTION-RELATED GOODS AND SERVICES**

A contract awarded under this Proposal Invitation covers only the specific goods and services awarded by the BuyBoard. As explained in the BuyBoard Construction Related Goods and Services Advisory for Texas Members ("Advisory"), **Texas law prohibits the procurement of architecture or engineering services through a purchasing cooperative. This BuyBoard contract does not include such services. Architecture or engineering services must be procured by a Cooperative member separately, in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and other applicable law and local policy.**

The Advisory, attached to this Form F, provides an overview of certain legal requirements that are potentially relevant to a Cooperative member's procurement of construction or construction-related goods and services, including those for projects that may involve or require architecture, engineering or independent testing services.

By signature below, the undersigned affirms that Proposer has read and understands the Advisory attached to this Form F and is authorized by Proposer to make this affirmation. If Proposer sells construction-related goods or services to a Cooperative member under a BuyBoard contract awarded under this Proposal Invitation, Proposer will comply with the Advisory and applicable legal requirements, make a good faith effort to make its Cooperative member customers or potential Cooperative member customers aware of such requirements, and provide a Cooperative member with a copy of the Advisory before executing a Member Construction Contract with the member or accepting the member's purchase order for construction-related goods or services, whichever comes first.

Doggett Heavy Machinery Saws, LLC

Company Name

  
Signature of Authorized Company Official

William Doggett  
Printed Name

2-16-17  
Date



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## **BUYBOARD PROCUREMENT AND CONSTRUCTION-RELATED GOODS AND SERVICES ADVISORY FOR TEXAS MEMBERS**

**Why make purchases using BuyBoard?** Purchasing through a cooperative or “interlocal contract” satisfies the requirement of local governments to seek competitive procurement for the purchase of goods or services.<sup>1</sup> Therefore, you may purchase goods and services from a vendor through BuyBoard without having to conduct your own competitive procurement. If, however, you are procuring construction-related services through a BuyBoard Job Order Contract (JOC) or contract for the installation of equipment or materials (e.g., athletic fields and surfaces, kitchen equipment, HVAC, playground equipment, or modular buildings), you may, as explained in this Advisory, need to procure certain aspects of these services using a separate procurement process outside of the BuyBoard and should consult your procurement officer and/or legal advisor for specific advice.

**What is BuyBoard’s Procurement Process?** The BuyBoard uses a competitive procurement process to award contracts to vendors for goods and services that the BuyBoard determines, based on an evaluation of multiple criteria, represents the best value for its members.

**How does BuyBoard award a contract to a vendor?** As a condition of being awarded a BuyBoard contract, a vendor is bound by and must agree to comply with all the terms of the BuyBoard’s proposal invitation (or specifications), the vendor’s proposal response, and any additional contract terms negotiated with the BuyBoard member. Among other things, the vendor must honor the pricing submitted in the vendor’s proposal. **THE PRICE YOU PAY FOR THE GOODS AND SERVICES COVERED BY THE BUYBOARD CONTRACT MAY BE LESS THAN THE AWARDED PRICING, BUT CANNOT BE MORE.** Additionally, the vendor must comply with the BuyBoard contract’s general terms and conditions, and any additional terms and conditions that apply to the specific BuyBoard contract, as set out in the proposal invitation.

**How does a BuyBoard member make purchases through the BuyBoard contract?** You utilize the awarded BuyBoard contract by issuing a signed purchase order through the BuyBoard online application to procure the selected goods or services. Although BuyBoard must receive a copy of the signed purchase order, BuyBoard does not review or approve the purchase order or other supplemental agreement that you obtain – this is a matter between you and the vendor. If construction-related services are procured through the BuyBoard, additional contracts with professionals and the contractor may be required, depending on the nature and scope of the services. As stated above, you should consult your procurement officer and/or legal advisor for specific advice.

### **How do I know that my entity has made a purchase through the BuyBoard?**

BuyBoard must have a copy of the purchase order in order for the purchase to be considered a BuyBoard procurement. To ensure that your entity has satisfied state law requirements for competitive procurement, make sure that the BuyBoard has your purchase order. Do not rely on the vendor to submit the purchase order on your behalf; it is your responsibility to make sure that the BuyBoard has the signed purchase order. You may log in to [www.buyboard.com](http://www.buyboard.com) using your member I.D. and password to view the Purchase Order Status Report to confirm that the purchase order is in the BuyBoard system.

**What should BuyBoard members consider when using BuyBoard for construction-related purchases?** While purchasing goods and services through BuyBoard satisfies your legal requirement to competitively procure a good or service, as a general matter you must keep in mind other legal requirements that may relate to the purchase, especially when using BuyBoard for construction-related procurement.



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When making construction-related purchases through a BuyBoard contract, BuyBoard members must consider the following:

- **Best value determination.** In compliance with Texas law and any local policy, your entity must first determine that purchasing through an interlocal contract or purchasing cooperative is the procurement method that will provide best value.<sup>ii</sup> This is done by the governing body (e.g., board of trustees, council, commissioners' court, etc.) or may be delegated by the governing body to an individual or committee, with written notice.
- **Products or services not covered by the BuyBoard contract.** The BuyBoard contract covers only the specific goods and services awarded by the BuyBoard. If you want to purchase from a BuyBoard vendor goods or services from a BuyBoard vendor that are not covered by the vendor's BuyBoard contract, such as architectural, design, or engineering services, you must procure them separately in accordance with state law and local policy.
- **Architectural or Engineering and Independent Testing services.** If your procurement includes a construction component that requires architectural or engineering services, you must procure those services separately. YOU MAY NOT PROCURE ARCHITECTURAL OR ENGINEERING SERVICES THROUGH A BUYBOARD CONTRACT. Texas law requires architectural and engineering services to be obtained in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and prohibits them from being procured through a purchasing cooperative.<sup>iii</sup>
  - **Architecture.** A new building owned by a political subdivision having construction costs exceeding \$100,000 or an alteration or addition to an existing building having construction costs exceeding \$50,000 must have architectural plans and specifications prepared by an architect.<sup>iv</sup> (An "alteration" or "addition" for purposes of this requirement requires the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit.)
  - **Engineering.** If the goods or services procured through the BuyBoard will involve engineering in which the public health, welfare, or safety is involved, the plans for structural, mechanical, electrical, electronic, fire suppression, geotechnical systems, foundation design, surface water drainage, plumbing and certain roof modifications and associated estimates must be prepared by an engineer, and the engineering construction must be performed under the direct supervision of an engineer.<sup>v</sup> The Engineering Practice Act provides two exceptions to this rule – no engineer is required if (1) the project involves mechanical or electrical engineering and will cost \$8,000 or less, or (2) the project does not require mechanical or electrical engineering and will cost \$20,000 or less.<sup>vi</sup>
  - **Independent Testing.** If acceptance of a facility by a public entity involves independent testing of construction materials engineering and/or verification testing services, the testing services should be procured under the Professional Services Procurement Act, and may not be procured under a BuyBoard contract.
  - **Written Certification.** Effective 09/01/2013, a local governmental entity purchasing construction-related goods and services through a cooperative in an amount that exceeds \$50,000 must designate a person to certify in writing that the project does not require the preparation of plans or specifications by an architect or engineer OR that an architect or engineer has prepared the plans or specifications.<sup>vii</sup>



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- **Bonds.** You must also consider whether the vendor is required to provide a payment or performance bond. A payment bond is required for contracts that exceed \$25,000 to protect subcontractors who supply labor or materials for the project. A performance bond is required for a contract that exceeds \$100,000, to protect the local government if a contractor fails to complete the project.<sup>viii</sup> Without payment and performance bonds, if the contractor fails to pay its subcontractors or to complete the project, the public entity that entered the contract can be held responsible for payment claims or costs to complete.
  
- **Construction Contract.** Even though the procurement of construction or construction-related services may be through the BuyBoard, your construction contract is between your entity and the contractor. The BuyBoard contract's general terms and conditions, standing alone, are not sufficient to document your entity's specific transaction. THEREFORE, YOU SHOULD USE AN APPROPRIATE FORM OF CONSTRUCTION CONTRACT JUST AS YOU WOULD DO IF YOU PROCURED CONSTRUCTION SERVICES INDEPENDENTLY, USING COMPETITIVE SEALED PROPOSALS. The contract must contain provisions required by state law including: performance and payment bonds, requirements for payment of prevailing wages to all construction workers, workers' compensation coverage for all workers and, on projects where contractor employees may have direct contact with students, criminal history record checks. Other provisions which should be considered in the construction contract are retainage, contingency, liquidated damages and dispute resolution, among others. By supplementing the BuyBoard contract with an appropriate form of construction contract, you ensure that your entity's unique interests are addressed and that your entity can enforce the contract directly.
  
- **Legal advice.** Because of the variety of laws that relate to construction-related purchasing and the potential risk of high exposure, you are well-advised to consult with your entity's legal counsel before procuring construction-related goods and services under any procurement method, including a purchasing cooperative.

**This Advisory is provided for educational purposes only to facilitate a general understanding of the law. This Advisory is neither an exhaustive treatment on the subject nor is it intended to substitute for the advice of an attorney.**

For more information about BuyBoard, contact us at 800-695-2919.

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- i. Tex. Gov't Code §791.025 and Tex. Local Gov't Code §271.102.
  - ii. Tex. Ed. Code §44.031(a) (school districts); Tex. Local Gov't Code §252.043(a)(municipalities) and §262.022(5-a) and §262.027(counties)
  - iii. Tex. Gov't Code §2254.004 and §791.011(h)
  - iv. Tex. Occ. Code §1051.703
  - v. Tex. Occ. Code §1001.0031(c)
  - vi. Tex. Occ. Code §1001.053
  - vii. Tex. Gov't Code §791.011(j), effective September 1, 2013
  - viii. Tex. Gov't Code §2253.021(a)

*Issued March 31, 2014*



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**DEVIATION AND COMPLIANCE SIGNATURE FORM**

If your company intends to deviate from the General Terms and Conditions, Item Specifications or other requirements associated with this Proposal Invitation, you must list all such deviations on this form, and provide complete and detailed information regarding the deviations on this form, an attachment to this form, or elsewhere in your Proposal. (If you do not provide the information on or as an attachment to this form, the information must be clearly identified in your Proposal.) The Cooperative will consider any deviations in its contract award decision, and reserves the right to accept or reject a proposal based upon any submitted deviation.

In the absence of any deviation identified and described in accordance with the above, your company must fully comply with the General Terms and Conditions, Item Specifications and all other requirements associated with this Proposal Invitation if awarded a contract under this Proposal Invitation.

- No**; Deviations
- Yes**; Deviations

List and fully explain any deviations you are submitting:

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**PLEASE PROVIDE THE FOLLOWING INFORMATION:**

1. Shipping Via:  Common Carrier  Company Truck  Prepaid and Add to Invoice  Other:

2. Payment Terms:  Net 30 days  1% in 10/Net 30 days  Other:

upon delivery

3. Number of Days for Delivery: 0-60 ARO

4. Vendor Reference/Quote Number: Yes

5. State your return policy: N/A

6. Are electronic payments acceptable?  Yes  No

7. Are credit card payments acceptable?  Yes  No (but must pay fee)

Doggett Heavy Machinery Services, LLC  
Company Name

[Signature]  
Signature of Authorized Company Official

2-16-17  
Printed Name



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**DEALERSHIP LISTINGS**

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

Doggett Heavy Machinery Services, LLC  
Company Name

900 E. Expressway 83  
Address

San Juan TX 78589  
City State Zip

956-787-0001 956-787-0055  
Phone Number Fax Number

Brad Penick  
Contact Person

Doggett Heavy Machinery Services, LLC  
Company Name

134 North Padre Island Dr.  
Address

Corpus Christi TX 78406  
City State Zip

361-289-0727 N/A  
Phone Number Fax Number

Brad Penick  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

Doggett Heavy Machinery Services, LLC  
Company Name

12410 US 59 North  
Address

Victoria TX 77905  
City State Zip

361-570-6666 N/A  
Phone Number Fax Number

Brad Penick  
Contact Person

Doggett Heavy Machinery Services, LLC  
Company Name

9111 North Freeway  
Address

Houston TX 77037  
City State Zip

(713) 679-6700 N/A  
Phone Number Fax Number

Mike Prichard  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

Doggett Heavy Machinery Services, LLC  
Company Name

3500 State Hwy 21 West  
Address

BRYAN TX 77803  
City State Zip

979-823-1905 N/A  
Phone Number Fax Number

mike Prichard  
Contact Person

Doggett Heavy Machinery Services, LLC  
Company Name

4355 W. Cardinal Dr.  
Address

Beaumont TX 77705  
City State Zip

(409) 842-1754 N/A  
Phone Number Fax Number

mike Prichard  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

*N.L. Doggett LLC d/g/a*

Doggett Machinery Services  
Company Name

4006 Ellen Trout Dr.  
Address

Lufkin TX 75903  
City State Zip

(936) 634-8801 N/A  
Phone Number Fax Number

GARRET Smith  
Contact Person

*W.C. Doggett LLC d/g/a*

Doggett Machinery Services  
Company Name

1126 N. NE LOOP 323  
Address

Tyler TX 75708  
City State Zip

(903) 592-8900 N/A  
Phone Number Fax Number

GARRET Smith  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

WL Doggett LLC  
d/b/a

Doggett Machinery Services  
Company Name

413 South Eastman Rd  
Address

Longview TX 75602  
City State Zip

(903) 758-3326 N/A  
Phone Number Fax Number

GARRET SMITH  
Contact Person

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Number Fax Number

\_\_\_\_\_  
Contact Person



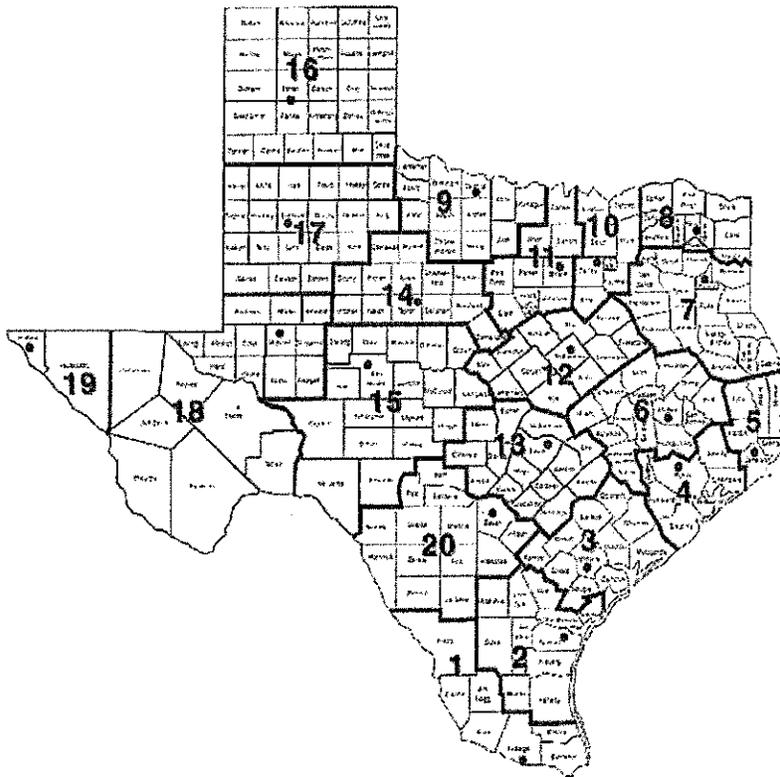
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## TEXAS REGIONAL SERVICE DESIGNATION

**Unless you designate otherwise on this form, you agree to service members of The Local Government Purchasing Cooperative statewide!**

The Cooperative (referred to as "Texas Cooperative" in this form and in the State Service Designation form) offers vendors the opportunity to service its members throughout the entire State of Texas. If you do not plan to service all Texas Cooperative members statewide, you **must** indicate the specific regions you will service on this form. Additionally, if you do not plan to service Texas Cooperative members (i.e., if you will service only states other than Texas), you must so indicate on this form.

### Regional Education Service Centers



- I will service Texas Cooperative members statewide.
- I will not service Texas Cooperative members statewide. I will only service members in the regions checked below:

| <u>Region</u>                         | <u>Headquarters</u> |
|---------------------------------------|---------------------|
| <input checked="" type="checkbox"/> 1 | Edinburg            |
| <input checked="" type="checkbox"/> 2 | Corpus Christi      |
| <input checked="" type="checkbox"/> 3 | Victoria            |
| <input checked="" type="checkbox"/> 4 | Houston             |
| <input checked="" type="checkbox"/> 5 | Beaumont            |
| <input checked="" type="checkbox"/> 6 | Huntsville          |
| <input checked="" type="checkbox"/> 7 | Kilgore             |
| <input type="checkbox"/> 8            | Mount Pleasant      |
| <input type="checkbox"/> 9            | Wichita Falls       |
| <input type="checkbox"/> 10           | Richardson          |
| <input type="checkbox"/> 11           | Fort Worth          |
| <input type="checkbox"/> 12           | Waco                |
| <input type="checkbox"/> 13           | Austin              |
| <input type="checkbox"/> 14           | Abilene             |
| <input type="checkbox"/> 15           | San Angelo          |
| <input type="checkbox"/> 16           | Amarillo            |
| <input type="checkbox"/> 17           | Lubbock             |
| <input type="checkbox"/> 18           | Midland             |
| <input type="checkbox"/> 19           | El Paso             |
| <input type="checkbox"/> 20           | San Antonio         |

\_\_\_\_\_  
 Company Name

\_\_\_\_\_  
 Signature of Authorized Company Official

\_\_\_\_\_  
 Printed Name

- I will not service members of the Texas Cooperative.



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### STATE SERVICE DESIGNATION

The Cooperative offers vendors the opportunity to service other governmental entities in the United States, including intergovernmental purchasing cooperatives such as the National Purchasing Cooperative BuyBoard. You must complete this form if you plan to service the entire United States, or will service only the specific states indicated. (Note: If you plan to service Texas Cooperative members, be sure that you complete the Texas Regional Service Designation form.)

I will service all states in the United States.

I will not service all states in the United States. I will service only the states checked below:

- |  |   |
|--|---|
| <input type="checkbox"/> Alabama   | <input type="checkbox"/> Nebraska         |
| <input type="checkbox"/> Alaska  | <input type="checkbox"/> Nevada           |
| <input type="checkbox"/> Arizona   | <input type="checkbox"/> New Hampshire    |
| <input type="checkbox"/> Arkansas  | <input type="checkbox"/> New Jersey       |
| <input type="checkbox"/> California (Public Contract Code 20118 & 20652) | <input type="checkbox"/> New Mexico       |
| <input type="checkbox"/> Colorado  | <input type="checkbox"/> New York         |
| <input type="checkbox"/> Connecticut                                     | <input type="checkbox"/> North Carolina   |
| <input type="checkbox"/> Delaware  | <input type="checkbox"/> North Dakota     |
| <input type="checkbox"/> District of Columbia                            | <input type="checkbox"/> Ohio             |
| <input type="checkbox"/> Florida   | <input type="checkbox"/> Oklahoma         |
| <input type="checkbox"/> Georgia   | <input type="checkbox"/> Oregon           |
| <input type="checkbox"/> Hawaii  | <input type="checkbox"/> Pennsylvania     |
| <input type="checkbox"/> Idaho   | <input type="checkbox"/> Rhode Island     |
| <input type="checkbox"/> Illinois  | <input type="checkbox"/> South Carolina   |
| <input type="checkbox"/> Indiana   | <input type="checkbox"/> South Dakota     |
| <input type="checkbox"/> Iowa  | <input type="checkbox"/> Tennessee        |
| <input type="checkbox"/> Kansas  | <input checked="" type="checkbox"/> Texas |
| <input type="checkbox"/> Kentucky  | <input type="checkbox"/> Utah             |
| <input type="checkbox"/> Louisiana                                       | <input type="checkbox"/> Vermont          |
| <input type="checkbox"/> Maine   | <input type="checkbox"/> Virginia         |
| <input type="checkbox"/> Maryland  | <input type="checkbox"/> Washington       |
| <input type="checkbox"/> Massachusetts                                   | <input type="checkbox"/> West Virginia    |
| <input type="checkbox"/> Michigan  | <input type="checkbox"/> Wisconsin        |
| <input type="checkbox"/> Minnesota                                       | <input type="checkbox"/> Wyoming          |
| <input type="checkbox"/> Mississippi                                     |   |
| <input type="checkbox"/> Missouri  |   |
| <input type="checkbox"/> Montana   |   |

This form will be used to ensure that you can service other governmental entities throughout the United States as indicated. Your signature below confirms that you understand your service commitments during the term of a contract awarded under this proposal.

Doggett Heavy Machinery  
Company Name

\_\_\_\_\_  
Signature of Authorized Company Official

\_\_\_\_\_  
Printed Name



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## **NATIONAL PURCHASING COOPERATIVE VENDOR AWARD AGREEMENT**

In accordance with the Terms and Conditions associated with this Proposal Invitation, a contract awarded under this Proposal Invitation may be "piggy-backed" by another governmental entity. The National Purchasing Cooperative is an intergovernmental purchasing cooperative formed by certain school districts outside of Texas to serve its members throughout the United States. If you agree to be considered for a piggy-back award by the National Purchasing Cooperative, you agree to the following terms and agree to serve National Purchasing Cooperative members in the states you have indicated on the State Service Designation form, in your Proposal.

**By signing this form, Proposer (referred to in this Agreement as "Vendor") agrees as follows:**

1. Vendor acknowledges that if The Local Government Purchasing Cooperative ("Texas Cooperative") awards Vendor a contract under this Proposal Invitation ("Underlying Award"), the National Purchasing Cooperative ("National Cooperative") may - but is not required to - "piggy-back" on or re-award all or a portion of that Underlying Award ("Piggy-Back Award"). By signing this National Cooperative Vendor Award Agreement ("Agreement"), Vendor accepts and agrees to be bound by any such Piggy-Back Award as provided for herein.
2. In the event National Cooperative awards Vendor a Piggy-Back Award, the National Cooperative Administrator ("BuyBoard Administrator") will notify Vendor in writing of such Piggy-Back Award, which award shall commence on the effective date stated in the Notice and end on the expiration date of the Underlying Award, subject to annual renewals as authorized in writing by the BuyBoard Administrator. Vendor agrees that no further signature or other action is required of Vendor in order for the Piggy-Back Award and this Agreement by Vendor will be binding on National Cooperative, unless such changes are agreed to by its BuyBoard Administrator in writing.
3. Vendor agrees that it shall offer its goods and services to National Cooperative members at the same unit pricing and same general terms and conditions, subject to applicable state laws in the state of purchase, as required by the Underlying Award. However, nothing in this Agreement prevents Vendor from offering National Cooperative members better (i.e., lower) competitive pricing and more favorable terms and conditions than those in the Underlying Award.
4. Vendor hereby agrees and confirms that it will serve those states it has designated on the State Service Designation Form of this Proposal Invitation. Any changes to the states designated on the State Service Designation Form must be approved in writing by the BuyBoard Administrator.
5. Vendor agrees to pay National Cooperative the service fee provided for in the Underlying Award based on the amount of purchases generated from National Cooperative members through the Piggy-Back Award. Vendor shall remit payment to National Cooperative on such schedule as it specifies (which shall not be more often than monthly). Further, upon request, Vendor shall provide National Cooperative with copies of all purchase orders generated from National Cooperative members for purposes of reviewing and verifying purchase activity. Vendor further agrees that National Cooperative shall have the right, upon reasonable written notice, to review Vendor's records pertaining to purchases made by National Cooperative members in order to verify the accuracy of service fees.



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6. Vendor agrees that the Underlying Award, including its General Terms and Conditions, are adopted by reference to the fullest extent such provisions can reasonably apply to the post-proposal/contract award phase. The rights and responsibilities that would ordinarily inure to the Texas Cooperative pursuant to the Underlying Award shall inure to National Cooperative; and, conversely, the rights and responsibilities that would ordinarily inure to Vendor in the Underlying Award shall inure to Vendor in this Agreement. Vendor recognizes and agrees that Vendor and National Cooperative are the only parties to this Agreement, and that nothing in this Agreement has application to other third parties, including the Texas Cooperative. In the event of conflict between this Agreement and the terms of the Underlying Award, the terms of this Agreement shall control, and then only to the extent necessary to reconcile the conflict.

7. This Agreement shall be governed and construed in accordance with the laws of the State of Rhode Island and venue for any dispute shall lie in the federal district court of Alexandria, Virginia.

8. Vendor acknowledges and agrees that the award of a Piggy-Back Award is within the sole discretion of National Cooperative, and that this Agreement does not take effect unless and until National Cooperative awards Vendor a Piggy-Back Award and the BuyBoard Administrator notifies Vendor in writing of such Piggy-Back Award as provided for herein.

WHEREFORE, by signing below Vendor agrees to the foregoing and warrants that it has the authority to enter into this Agreement.

Doggett Heavy Machinery Services, LLC      515-16  
Name of Vendor      Proposal Invitation Number

[Signature]  
Signature of Authorized Company Official

William Doggett  
Printed Name of Authorized Company Official

2-16-17  
Date



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**FEDERAL AND STATE/PURCHASING COOPERATIVE DISCOUNT COMPARISON FORM**

The Cooperative strives to provide its members with the best services and products at the best prices available. The Cooperative determines whether prices/discounts are fair and reasonable by comparing prices/discounts stated in your Proposal with prices/discounts you offer federal and state entities and other interlocal purchasing cooperatives (collectively referred to as "purchasing cooperative" in this form). Please respond to the following questions.

1. Provide the dollar value of sales to or through purchasing cooperatives at or based on an established catalog or market price during the previous 12-month period or the last fiscal year: \$ 1,000,000 (The period of the 12 month period is Jan 2016 / Dec 2016). In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).
2. Based on your written discounting policies are the discounts you offer the Cooperative equal to or better than the best price you offer other purchasing cooperatives acquiring the same items regardless of quantity or terms and conditions?

YES  NO

3. Based on your written discounting policies, provide the information requested below for other purchasing cooperatives, either in the chart below or in an equivalent format. Rows should be added to accommodate as many purchasing cooperatives as required.

| PURCHASING GROUP                        | DISCOUNT (%)  | QUANTITY/VOLUME  | FOB TERM |
|---|---------------|------------------|----------|
| 1. Federal General Services Adm.        |               |                  |          |
| 2. T-PASS                               |               |                  |          |
| 3. U.S. Communities Purchasing Alliance |               |                  |          |
| 4. The Cooperative Purchasing Network   |               |                  |          |
| 5. Houston-Galveston Area Council       | <u>28-46%</u> | <u>\$500,000</u> | <u>0</u> |
| 6. Other                                |               |                  |          |

MY COMPANY DOES NOT CURRENTLY HAVE ANY OF THE ABOVE OR SIMILAR TYPE CONTRACTS.

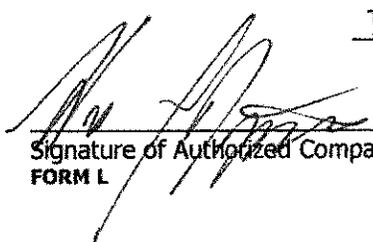
**CURRENT BUYBOARD VENDORS**

If you are a current BuyBoard vendor, indicate the discount for your current BuyBoard contract and the proposed discount in this Proposal. Explain any difference between your current and proposed discounts.

Current Discount (%): 28-46% Proposed Discount (%): 28-46%

Explanation: \_\_\_\_\_

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

  
 \_\_\_\_\_  
 Signature of Authorized Company Official

Doggett Heavy Machinery Services, LLC  
 Company Name

William Doggett  
 Printed Name



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**GOVERNMENTAL REFERENCES AND PRICE/DISCOUNT INFORMATION**

For your Proposal to be considered, you must supply a minimum of five (5) individual governmental entity references. Provide the information requested below, including the existing price/discounts you offer each customer. The Cooperative determines whether prices/discounts are fair and reasonable by comparing prices/discounts stated in your Proposal with the prices/discounts you offer other governmental customers. Attach additional pages if necessary.

| <u>Entity Name</u>    | <u>Contact</u> | <u>Phone#</u> | <u>Discount</u> | <u>Quantity/<br/>Volume</u> | <u>FOB Term</u> |
|-----------------------|----------------|---------------|-----------------|-----------------------------|-----------------|
| 1. City of Victoria   | Tiffany        | 361-485-3080  | BB              | 200K                        | 0               |
| 2. City of Kingsville | Dora           | 361-592-5235  | BB              | 211                         | 0               |
| 3. City of McAllen    | G. Trevino     | 956-681-1068  | BB              | 70K                         | 0               |
| 4. Hidalgo Co. Pet 2  | Tito Palacio   | 956-787-1891  | BB              | 700K                        | 0               |
| 5. City of Tyler      | GRETT          | 903-387-0165  | BB              | 100K                        | 0               |

Do you ever modify your written policies or standard governmental sales practices as identified in the above chart to give better discounts (lower prices) than indicated? YES  NO  If YES, please explain:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

By signature below, I certify that the above is true and correct and that I am authorized by my company to make this certification.

Doggett Heavy machinery Services, LLC

Company Name

Signature of Authorized Company Official

William Doggett  
 Printed Name



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### MARKETING STRATEGY

For your Proposal to be considered, you must submit the Marketing Strategy you will use if the Cooperative accepts all or part of your Proposal. *(Example: How your company will initially inform Cooperative members of your BuyBoard contract, and how you will continue to support the BuyBoard for the duration of the contract period.)*

Attach additional pages if necessary.

Our strategy is marketed thru our outside sales force calling on governmental agencies. We have been using BB for many years and our cust. base is well informed of its benefits.

Doggett Heavy Machinery Sales, LLC

Company Name

Signature of Authorized Company Official

William Doggett

Printed Name



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**CONFIDENTIAL/PROPRIETARY INFORMATION FORM**

**A. Public Disclosure Laws**

All Proposals, forms, documentation, or other materials submitted by Vendor to the Cooperative in response to this Proposal Invitation may be subject to the disclosure requirements of the Texas Public Information Act (Texas Government Code chapter 552.001, *et. seq.*) or similar disclosure law. Proposer must clearly identify on this form any information in its Proposal (including forms, documentation, or other materials submitted with the Proposal) that Proposer considers proprietary or confidential. If Proposer fails to properly identify the information, the Cooperative shall have no obligation to seek protection of such information from public disclosure should a member of the public or other third party request access to the information under the Texas Public Information Act or similar disclosure law. Proposer will be notified of any third party request for information in a Proposal that Proposer has identified in this form as proprietary or confidential.

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain information which Vendor considers proprietary or confidential?

Please check (✓) one of the following:

**NO**, I certify that none of the information included with this Proposal is considered confidential or proprietary.

**YES**, I certify that this Proposal contains information considered confidential or proprietary and all such information is specifically identified on this form.

If you responded "YES", you must identify below the specific information you consider confidential or proprietary. List each page number, form number, or other information sufficient to make the information readily identifiable. The Cooperative and its Administrator will not be responsible for a Proposer's failure to clearly identify information considered confidential or proprietary. Further, by submitting a Proposal, Proposer acknowledges that the Cooperative and its Administrator will disclose information when required by law, even if such information has been identified herein as information the vendor considers confidential or proprietary.

Confidential / Proprietary Information:

sales volume with Doggett Customers

(Attach additional sheets if needed.)



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**B. Copyright Information**

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain copyright information?

Please check (✓) one of the following:

**NO**, Proposal (including forms, documentation, or other materials submitted with the Proposal) does not contain copyright information.

**YES**, Proposal (including forms, documentation, or other materials submitted with the Proposal) does contain copyright information.

If you responded "YES", identify below the specific documents or pages containing copyright information.

Copyright Information: \_\_\_\_\_

\_\_\_\_\_

*(Attach additional sheets if needed.)*

**C. Consent to Release Confidential/Proprietary/Copyright Information to BuyBoard Members**

BuyBoard members (Cooperative and nonprofit members) seeking to make purchases through the BuyBoard may wish to view information included in the Proposals of awarded Vendors. If you identified information on this form as confidential, proprietary, or subject to copyright, and you are awarded a BuyBoard contract, your acceptance of the BuyBoard contract award constitutes your consent to the disclosure of such information to BuyBoard members, including posting of such information on the secure BuyBoard website for members. Note: Neither the Cooperative nor its Administrator will be responsible for the use or distribution of information by BuyBoard members or any other party.

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Doggett Heavy Machinery Services, LLC

Company Name

Signature of Authorized Company Official

William Doggett

Printed Name

2-16-12

Date



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### VENDOR BUSINESS NAME FORM

By submitting a Proposal, Proposer is seeking to enter into a legal contract with the Cooperative. As such, a Proposer must be an individual or legal business entity capable of entering into a binding contract. Proposers, must completely and accurately provide the information requested below or your Proposal may be deemed non-responsive.

**Name of Proposing Company:** Doggett Heavy Machinery Services, LLC  
*(List the legal name of the company seeking to contract with the Cooperative. Do NOT list an assumed name, dba, aka, etc. here. Such information may be provided below. If you are submitting a joint proposal with another entity to provide the same proposed goods or services, each submitting entity should complete a separate vendor information form. Separately operating legal business entities, even if affiliated entities, which propose to provide goods or services separately must submit their own Proposals.)*

Please check (✓) one of the following:

**Type of Business:**

- Individual/Sole Proprietor \_\_\_\_\_
  - Corporation \_\_\_\_\_
  - Limited Liability Company  \_\_\_\_\_
  - Partnership \_\_\_\_\_
  - Other \_\_\_\_\_
- If other, identify \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**State of Incorporation** (If applicable): Texas

**Federal Employer Identification Number:** 203694220  
*(Vendor must include a completed IRS W-9 form with their proposal)*

List the Name(s) by which Vendor, if awarded, wishes to be identified on the BuyBoard: *(Note: If different than the Name of Proposing Company listed above, only valid trade names (dba, aka, etc.) of the Proposing Company may be used and a copy of your Assumed Name Certificate(s), if applicable, must be attached.)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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**EDGAR VENDOR CERTIFICATION FORM**  
**(2 CFR Part 200 and Appendix II)**

When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting proposals must complete this EDGAR Certification Form regarding Vendor's willingness and ability to comply with certain requirements which *may* be applicable to specific Cooperative member purchases using federal grant funds. This completed form will be made available to Cooperative members for their use while considering their purchasing options when using federal grant funds. Cooperative members may also require Vendors to enter into ancillary agreements, in addition to the BuyBoard contract's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

*For each of the items below, Vendor should certify Vendor's agreement and ability to comply, where applicable, by having Vendor's authorized representative check and initial the applicable boxes and sign the acknowledgment at the end of this form. If you fail to complete any item in this form, the Cooperative will consider and may list the Vendor's response on the BuyBoard as "NO," the Vendor is unable or unwilling to comply. A "NO" response to any of the items may, if applicable, impact the ability of a Cooperative member to purchase from the Vendor using federal funds.*

---

**1. Vendor Violation or Breach of Contract Terms:**

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Provisions regarding Vendor default are included in the BuyBoard General Terms and Conditions, including Section E.18, Remedies for Default and Termination of Contract. Any Contract award will be subject to such BuyBoard General Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, Cooperative member ancillary contract, or Member Construction Contract agreed upon by Vendor and the Cooperative member which must be consistent with and protect the Cooperative member at least to the same extent as the BuyBoard Terms and Conditions.

The remedies under the Contract are in addition to any other remedies that may be available under law or in equity.

By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

**Vendor Certification, Item 1 (Vendor Violation or Breach of Contract Terms)**

- YES, I agree to the above.** (Initial: ✓) *WD*
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)



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**2. Termination for Cause or Convenience:**

For any Cooperative member purchase or contract in excess of \$10,000 made using federal funds, you agree that the following term and condition shall apply:

*The Cooperative member may terminate or cancel any purchase order under this Contract at any time, with or without cause, by providing seven (7) business days advance written notice to the Vendor. If this Agreement is terminated in accordance with this Paragraph, the Cooperative member shall only be required to pay Vendor for goods or services delivered to the Cooperative member prior to the termination and not otherwise returned in accordance with Vendor's return policy. If the Cooperative member has paid Vendor for goods or services not yet provided as of the date of termination, Vendor shall immediately refund such payment(s).*

If an alternate provision for termination of a Cooperative member purchase for cause and convenience, including the manner by which it will be effected and the basis for settlement, is included in the Cooperative member's purchase order, ancillary agreement, or Member Construction Contract agreed to by the Vendor, the Cooperative member's provision shall control.

**Vendor Certification, Item 2 (Termination for Cause or Convenience):**

- YES, I agree to the above.** (Initial: WJD)
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)

**3. Equal Employment Opportunity:**

Except as otherwise provided under 41 CFR Part 60, all Cooperative member purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Vendor agrees that such provision applies to any Cooperative member purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Vendor agrees that it shall comply with such provision.

**Vendor Certification, Item 3 (Equal Employment Opportunity):**

- YES, I agree to the above.** (Initial: WJD)
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)



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**4. Davis-Bacon Act:**

When required by Federal program legislation, Vendor agrees that, for all Cooperative member prime construction contracts/purchases in excess of \$2,000, Vendor shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Vendor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at [www.wdol.gov](http://www.wdol.gov). Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Vendor is conditioned upon Vendor's acceptance of the wage determination.

Vendor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

**Vendor Certification, Item 4 (Davis-Bacon Act):**

- YES, I agree to the above.** (Initial: WD)
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)

**5. Contract Work Hours and Safety Standards Act:**

Where applicable, for all Cooperative member contracts or purchases in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**Vendor Certification, Item 5 (Contract Work Hours and Safety Standards Act):**

- YES, I agree to the above.** (Initial: WD)
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)



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**6. Right to Inventions Made Under a Contract or Agreement:**

If the Cooperative member's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.

**Vendor Certification, Item 6 (Right to Inventions Made Under a Contract or Agreement):**

- YES, I agree to the above.** (Initial: WD)
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)

**7. Clean Air Act and Federal Water Pollution Control Act:**

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

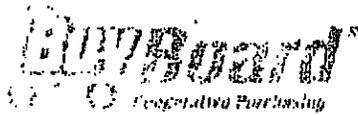
When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

**Vendor Certification, Item 7 (Clean Air Act and Federal Water Pollution Control Act):**

- YES, I agree to the above.** (Initial: WD)
- NO, I do NOT agree to the above.** (Initial: \_\_\_\_\_)

**8. Debarment and Suspension:**

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.



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Austin, TX 78767-0160  
P.O. Box 29117 | 512.252.2922 | FAX: 512.252.2911  
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## CONSENT TO ASSIGNMENT OF BUYBOARD CONTRACT

**Re: John Deere Construction Retail Sales Contract Assignment to Various Dealers (Texas Regions); Construction Equipment, Road and Bridge Equipment, Ditching, Trenching, Utility, and Other Equipment, Contract #515-16**

The Local Government Purchasing Cooperative d/b/a BuyBoard® (Texas Cooperative) awarded John Deere Shared Services, Inc. d/b/a John Deere Construction Retail Sales (John Deere), 1515 5<sup>th</sup> Avenue, Moline, IL 61265, the above-referenced BuyBoard contract to sell the products specified in the attached in Texas and the National Purchasing Cooperative (National Cooperative) extended that award to other states.

In order to afford more immediate access to John Deere products for Texas Cooperative members, John Deere, the manufacturer of the awarded products, has requested the Texas Cooperative's consent to assign its contract to sell the awarded products in Texas Regions 1 through 20 to five of its dealers as follows:

- Assignment to 4 Rivers Holdings, LLC d/b/a 4 Rivers Equipment, LLC (4 Rivers), 924 11<sup>th</sup> Street, Greeley, CO 80631, to sell the awarded products in Texas Regions 18 and 19 only;
- Assignment to Doggett Heavy Machinery Services, LLC (Doggett-Houston), 9111 North Freeway, Houston, TX 77037, to sell the awarded products in Texas Regions 1, 2, 3, 4, 5, and 6 only;
- Assignment to W.L. Doggett, LLC d/b/a Doggett Machinery Services, LLC (Doggett-Baton Rouge), 10110 Daradaele Avenue, Baton Rouge, LA 70816, to sell the awarded products in Texas Regions 5, 6, 7, and 8 only;
- Assignment to RDO Construction Equipment Co. d/b/a RDO Equipment Co. (RDO), 16415 North IH-35, Pflugerville, TX 78660, to sell the awarded products in Texas Regions 1, 2, 3, 6, 9, 10, 11, 12, 13, and 20 only;
- Assignment to Yellowhouse Machinery Co., (Yellowhouse) 11500 IH40 East, Amarillo, TX 79118, to sell the awarded products in Texas Regions 9, 14, 15, 16, 17, and 18 only.

John Deere will retain its contract for all awarded states not otherwise assigned.

Approval of the assignment is conditioned upon approval by the Texas Cooperative and upon 4 Rivers, Doggett-Houston, Doggett-Baton Rouge, RDO, and Yellowhouse assuming and agreeing to be bound by all terms and conditions of John Deere's contract, which is attached hereto, and fulfilling all obligations to the Texas Cooperative and its members thereunder,



The Local Government Purchasing Cooperative is endorsed by the Texas Association of School Boards  
and the Texas Association of Counties and the Texas Association of School Administrators

including without limitation providing the listed products at a pricing discount structure at least as good as that required under John Deere's contract and paying the required service fee on purchase orders for such products.

By the signatures below of their authorized representatives, John Deere, 4 Rivers, Doggett-Houston, Doggett-Baton Rouge, RDO, and Yellowhouse acknowledge, accept, and agree to the assignment in accordance with and as required by the above.

**Contract Assignment Agreed to by Manufacturer:**

John Deere Shared Services, Inc. d/b/a John Deere Construction Retail Sales, 1515 5<sup>th</sup> Avenue, Moline, IL 61265

Authorized Signature of Acceptance:

Printed Name: Mark R. Deakyn Title: Contract Manager

Texas Regions Served: All

States Served: All

**Contract Assignment Accepted by Dealers:**

4 Rivers Holdings, LLC d/b/a 4 Rivers Equipment, LLC, 874 11<sup>th</sup> Street, Greeley, CO 80631

Authorized Signature of Acceptance:

Printed Name: Thad J. Bennett Title: Branch Manager

Texas Regions Served: 18 and 19

Doggett Heavy Machinery Services, LLC, 9111 North Freeway, Houston, TX 77037

Authorized Signature of Acceptance:

Printed Name: William Doggett Title: Asst. VP of Operations, General Counsel

Texas Regions Served: 1, 2, 3, 4, 5, 6

W.J. Doggett, LLC d/b/a Doggett Machinery Services, LLC, 10110 Daradele Avenue, Baton Rouge, LA 70816

Authorized Signature of Acceptance:

Printed Name: William Doggett Title: Asst. VP of Operations, General Counsel

Texas Regions Served: 5, 6, 7, 8

RDO Construction Equipment Co. d/b/a RDO Equipment Co, 16415 North IH-35, Pflugerville, TX 78660

Authorized Signature of Acceptance:

Printed Name: Daryl R. Shelton Title: Vice President RDO Texas

Texas Regions Served: 1, 3, 6, 9-13, and 20

Yellowhouse Machinery Co., 11500 IH40 East, Amarillo, TX 79118  
Authorized Signature of Acceptance: Tracy A. Thomson  
Printed Name: Tracy Thomson Title: Chief Financial Officer  
Texas Regions Served: 9, 14, 15, 16, 17 and 18

Approved by the Texas Cooperative on: 3/14/2017 by ballot vote

BuyBoard Administrator: Sharon McAfee Date: 3/14/2017



P.O. Box 400  
Austin, TX 78767-0400  
800.695.2919 | 512.467.0222 | Fax: 800.211.5454  
buyboard.com

November 1, 2018

Sent via Email to:brad.penick@doggett.com

Brad Penick  
Doggett Machinery Services - Houston  
9111 North Freeway  
Houston TX 77037

Re: Construction, Road/Bridge, Ditching, Trenching, Utility, & Other Equipment  
BuyBoard Contract 515-16

The Local Government Purchasing Cooperative d/b/a BuyBoard® (Cooperative) awarded your company a contract under Construction, Road/Bridge, Ditching, Trenching, Utility, & Other Equipment, Contract Number 515-16, for which the current term is set to expire November 30, 2018. At this time, we are renewing your contract through November 30, 2019. This will be the final renewal of this contract.

All discounts, terms, and conditions of your contract will remain the same. If you agree with the renewal, there is nothing you need to do. However, if you do not agree to this renewal, you must notify me immediately via email at [connie.burkett@tasb.org](mailto:connie.burkett@tasb.org).

**Reminder: All purchase orders must be processed through the BuyBoard. Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a Cooperative member.** Accepting orders directly from a member entity without Cooperative authorization is a violation of the terms of your contract. We request your assistance in immediately forwarding any orders received directly from member entities. Purchase orders may be sent to us either by fax (800-211-5454) or by email ([info@buyboard.com](mailto:info@buyboard.com)). If by chance an order sent directly to you has been unintentionally processed, please forward it to the Cooperative and note it as **RECORD ONLY** to prevent duplication.

If you have questions or comments concerning this renewal, please contact me as soon as possible at [connie.burkett@tasb.org](mailto:connie.burkett@tasb.org). We appreciate your interest and participation in The Local Government Purchasing Cooperative.

Sincerely,

  
Connie W Burkett, CTSBS  
Contract Administrator



The Local Government Purchasing Cooperative is endorsed by the Texas Association of School Boards, Texas Municipal League, Texas Association of Counties, and the Texas Association of School Administrators



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**DEALERSHIP LISTINGS**

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

Doggett Heavy Machinery Services, LLC  
Company Name

900 E. Expressway 83  
Address

San Juan TX 78589  
City State Zip

956-787-0001 956-787-0055  
Phone Number Fax Number

Brad Penick  
Contact Person

Doggett Heavy machinery Services, LLC  
Company Name

134 North Padre Island Dr.  
Address

Corpus Christi TX 78406  
City State Zip

361-289-0727 N/A  
Phone Number Fax Number

Brad Penick  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

Doggett Heavy Machinery Services, LLC  
Company Name

12410 US 59 North  
Address

Victoria TX 77905  
City State Zip

361-570-6666 N/A  
Phone Number Fax Number

Brad Penick  
Contact Person

Doggett Heavy Machinery Services, LLC  
Company Name

9111 North Freeway  
Address

Houston TX 77037  
City State Zip

(713) 679-6700 N/A  
Phone Number Fax Number

Mike Prichard  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

Doggett Heavy Machinery Services, LLC  
Company Name

3500 State Hwy 21 west  
Address

BRYAN TX 77803  
City State Zip

979-823-1905 N/A  
Phone Number Fax Number

mike Prichard  
Contact Person

Doggett Heavy machinery Services, LLC  
Company Name

4355 W. Cardinal Dr.  
Address

Beaumont TX 77705  
City State Zip

(409) 842-1754 N/A  
Phone Number Fax Number

mike Prichard  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

*N.L. Doggett LLC d/g/a*

Doggett Machinery Services  
Company Name

4006 Ellen Trout Dr.  
Address

Lufkin TX 75903  
City State Zip

(936) 634-8801 N/A  
Phone Number Fax Number

GARRET Smith  
Contact Person

*N.L. Doggett LLC*

*d/g/a*

Doggett Machinery Services  
Company Name

1126 N. NE LOOP 323  
Address

Tyler TX 75708  
City State Zip

(903) 592-8900 N/A  
Phone Number Fax Number

GARRET Smith  
Contact Person



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### DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

WL Doggett LLC  
0/6/a

Doggett Machinery Services  
Company Name

413 South Eastman Rd  
Address

Longview TX 75602  
City State Zip

(903) 758-3326 N/A  
Phone Number Fax Number

GARRET SMITH  
Contact Person

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Number Fax Number

\_\_\_\_\_  
Contact Person

**RESOLUTION #2020-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GOVERNMENTAL FINANCE CONTRACT (No.8949) BETWEEN GOVERNMENT CAPITAL CORPORATION AND THE CITY OF KINGSVILLE FOR AN ARTICULATED DUMP TRUCK; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville, Texas has need for an articulated dump truck and staff has located one through the BuyBoard purchasing cooperative program in compliance with Texas procurement law;

**WHEREAS**, on December 9, 2019 the City Commission of the City of Kingsville, Texas (“Lessee”) authorized staff to look for heavy equipment and work with Government Capital Corporation (“GCC” or “Lessor”) on possible financing for the heavy equipment via Resolution #2019-106;

**WHEREAS**, on January 13, 2020 the City Commission authorized the purchase of one articulated dump truck to be paid for through a governmental finance contract, or capital lease, which staff has negotiated with GCC;

**WHEREAS**, the City of Kingsville, Texas (“Issuer”) desires to enter into a certain Finance Contract No.8949, by and between the Issuer and GCC dated December 9, 2019 for the purpose of financing an “Articulated Dump Truck” (also known as “the Property”);

**WHEREAS**, the City desires to designate this Finance Contract as a “qualified tax exempt obligation” of the City for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the City has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the calendar year;

**WHEREAS**, the City expects and anticipates adequate funds to be available for all future lease/purchase payments after the current fiscal year for the following reasons: the City is fiscally stable, has not defaulted on any prior debt obligations, and desires to keep the road equipment to be acquired through this Finance Contract for its capital improvement projects and sanitation collection services.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**THAT**, the City Manager is hereby authorized to enter in the Finance Contract No. 8949 with Government Capital Corporation for a period of 7 years, with annual payments not to exceed \$40,405.27.

**THAT**, an official of the City be, and hereby is, authorized, empowered and directed to sign on its behalf the Finance Contract No. 8949 and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Finance Contract and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

**THAT**, pursuant to Section 265(b) (3) of the Internal Revenue Code of 1986, as amended, this Finance Contract be and hereby is designated as a "qualified tax-exempt obligation" includable within the TEN MILLION DOLLARS (\$10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Finance Contract is entered into.

**THAT**, the City shall not designate more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and the City, together with its subordinate entities, does not reasonably expect to issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year.

**THAT**, the equipment as described in Exhibit "A" of such agreement is essential to the function of the undersigned or to the service we provide to our citizens. Further, we have an immediate need for, and expect to make immediate use of, substantially all of the equipment, which need is not temporary or expected to diminish in the foreseeable future. The equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, the equipment was selected by us to be used as follows: Articulated Dump Truck.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**THAT** this Resolution shall be and become effective on and after adoption.

**THAT** this resolution was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 13th day of January, 2020.

---

Sam R. Fugate, Mayor

**ATTEST:**

---

Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

---

Courtney Alvarez, City Attorney

**RESOLUTION #2020-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GOVERNMENTAL FINANCE CONTRACT (No.8949) BETWEEN GOVERNMENT CAPITAL CORPORATION AND THE CITY OF KINGSVILLE FOR AN ARTICULATED DUMP TRUCK; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville, Texas has need for an articulated dump truck and staff has located one through the BuyBoard purchasing cooperative program in compliance with Texas procurement law;

**WHEREAS**, on December 9, 2019 the City Commission of the City of Kingsville, Texas ("Lessee") authorized staff to look for heavy equipment and work with Government Capital Corporation ("GCC" or "Lessor") on possible financing for the heavy equipment via Resolution #2019-106;

**WHEREAS**, on January 13, 2020 the City Commission authorized the purchase of one articulated dump truck to be paid for through a governmental finance contract, or capital lease, which staff has negotiated with GCC;

**WHEREAS**, the City of Kingsville, Texas ("Issuer") desires to enter into a certain Finance Contract No.8949, by and between the Issuer and GCC dated December 9, 2019 for the purpose of financing an "Articulated Dump Truck" (also known as "the Property");

**WHEREAS**, the City desires to designate this Finance Contract as a "qualified tax exempt obligation" of the City for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the City has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the calendar year;

**WHEREAS**, the City expects and anticipates adequate funds to be available for all future lease/purchase payments after the current fiscal year for the following reasons: the City is fiscally stable, has not defaulted on any prior debt obligations, and desires to keep the road equipment to be acquired through this Finance Contract for its capital improvement projects and sanitation collection services.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**THAT**, the City Manager is hereby authorized to enter in the Finance Contract No. 8949 with Government Capital Corporation for a period of 7 years, with annual payments not to exceed \$51,302.58.

**THAT**, an official of the City be, and hereby is, authorized, empowered and directed to sign on its behalf the Finance Contract No. 8949 and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Finance Contract and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

**THAT**, pursuant to Section 265(b) (3) of the Internal Revenue Code of 1986, as amended, this Finance Contract be and hereby is designated as a "qualified tax-exempt obligation" includable within the TEN MILLION DOLLARS (\$10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Finance Contract is entered into.

**THAT**, the City shall not designate more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and the City, together with its subordinate entities, does not reasonably expect to issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year.

**THAT**, the equipment as described in Exhibit "A" of such agreement is essential to the function of the undersigned or to the service we provide to our citizens. Further, we have an immediate need for, and expect to make immediate use of, substantially all of the equipment, which need is not temporary or expected to diminish in the foreseeable future. The equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, the equipment was selected by us to be used as follows: Articulated Dump Truck.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**THAT** this Resolution shall be and become effective on and after adoption.

**THAT** this resolution was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 13th day of January, 2020.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

## PUBLIC PROPERTY FINANCE ACT CONTRACT

THIS Public Property Finance Act Contract **No.8949** (hereafter referred to as the "Finance Contract") is dated as of **December 9, 2019**, by and between **Government Capital Corporation**, a Texas corporation (herein referred to as "GCC"), and the **City of Kingsville**, a political sub-division or agency of the State of Texas (hereinafter referred to as the "Issuer").

WITNESSETH: In furtherance of the providing by GCC of financing to the Issuer in connection with the Issuer's acquisition from Dodgett Machinery that is more fully described on EXHIBIT A attached hereto (the "Property"), and in consideration of the mutual covenants and conditions hereinafter set forth, pursuant to the provisions of the Public Property Finance Act, Chapter 271, Subchapter A, Texas Local Government Code, as amended (the "Act"), the parties agree as follows:

**1. Term and Payments.** The Issuer hereby covenants and agrees to pay to the order of GCC and GCC's successors and assigns those principal and interest installment amounts in those sums set forth on EXHIBIT B attached hereto (the "Payments") on or before those dates per installment that are more fully set forth on EXHIBIT B (the "Payment Dates"). It is acknowledged and understood that GCC may assign its rights hereunder to a third party and that notice of said assignment shall be provided to the Issuer and that the Issuer, thereafter, shall look to and consider said assignee as the party to whom all of the Issuer's duties hereunder are owed. The obligation of the Issuer to make the Payments shall not be subject to set-off, counterclaim, or recoupment to the extent permitted by law. The interest is calculated on the basis of a 30/360-day year on the unpaid principal amounts from the Schedule Date of the EXHIBIT B.

**2. Security, Levy of Taxes, Budgeting.**

**(a)** During the term of this Finance Contract, the Issuer covenants that prior to adopting a budget for any ensuing fiscal year it shall place in its proposed budget for such ensuing fiscal year an amount necessary to pay the Finance Contract Payments for such ensuing fiscal year, and that the final budget for each fiscal year shall set aside and appropriate out of Ad Valorem Taxes and other revenues and funds lawfully available therefore an amount sufficient to pay the Finance Contract Payments. The Issuer hereby agrees to assess and collect, a continuing direct annual Ad Valorem Tax on all taxable property within the boundaries of the Issuer, within the limitations prescribed by law, at a rate from year to year sufficient, together with such other revenues and funds lawfully available to the Issuer for the payment of the Payments, to provide funds each year to pay the Payments, full allowance being made for delinquencies and costs of collection. Such taxes and such revenues and funds in an amount sufficient to make the Payments are pledged to GCC and GCC's successors and assigns for such purpose as the same shall become due and payable under this Finance Contract.

**(b)** The Issuer waives all rights of set-off, recoupment, counterclaim and abatement against GCC and GCC's successors and assigns with respect to the amounts due under this Finance Contract, and the Issuer's obligation to pay amounts due under this Finance Contract is absolute and unconditional and not subject to set-off, recoupment, counterclaim or abatement for any reason whatsoever.

**3. Deposit into the Payment Fund.**

**(a)** Upon this Finance Contract taking effect the Issuer shall establish a Payment Fund, which shall be maintained by the Issuer as long as any Payments are unpaid. The Issuer hereby pledges the Payment Fund for the exclusive purpose of securing the Payments and shall apply the funds therein to the payment of Payments as such payments come due.

**(b)** Each year in which Payments come due, the Issuer shall, not later than the day preceding any such due date, deposit into the Payment Fund, from the Issuer's Ad Valorem taxes or other lawfully available funds (within the limits prescribed by law) an amount sufficient to make such payment. To the extent permitted by law, the Issuer hereby pledges its Ad Valorem tax as security for this obligation. To the extent required by the Texas Constitution, the Issuer agrees during each year of the term of this Finance Contract to assess and collect annually a sufficient sum to pay the greater of (1) interest on the debt created by this Finance Contract and a sinking fund of at least two percent of the principal amount of such debt, or (2) the payments required by Exhibit B attached hereto.

**(c)** The Payment Fund shall be depleted at least once a year except for a carryover amount not to exceed one twelfth (1/12) of the amount of the Payments expected to come due in the following year.

**4. Taxes.** The Issuer agrees to directly pay all taxes, insurance and other costs of every nature associated with its ownership of the Property.

**5. The Issuer's Covenants and Representations.** The Issuer covenants and represents as follows:

**(a)** The Issuer will provide an opinion of its counsel to the effect that, it has full power and authority to enter into this Finance Contract which has been duly authorized, executed, and delivered by the Issuer and is a valid and binding obligation enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Finance Contract have been, or will be, complied with in a timely manner;

**(b)** All Payments hereunder for the current fiscal period have been duly authorized and will be paid when due;

**(c)** There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization of performance of, or expenditure of funds pursuant to this Finance Contract;

**(d)** The information supplied and statements made by the Issuer in any financial statement or current budget prior to or contemporaneously with this Finance Contract are true and correct;

**(e)** The Issuer has complied or will comply with all bidding/proposal laws applicable to this transaction and the purchase of the Property.

**(f)** No contract, rental agreement, lease-purchase agreement, payment agreement or contract for purchase under the Act to which the Issuer has been a party at any time during the past ten (10) years has been terminated by the Issuer as a result of insufficient funds being appropriated in any Fiscal Year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which the Issuer has issued during the past ten (10) years.

**(g)** The Issuer will pay the Payments due by check, wire transfer, or ACH only.



**6. Use and Licenses.** The Issuer shall pay and discharge all operating and other expenses of every nature associated with its use of the Property. The Issuer shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Property.

**7. Maintenance.** The Issuer agrees to be solely responsible for all maintenance and operating costs of every nature associated with its ownership of the Property and the Issuer acknowledges that GCC or GCC's successors or assigns shall have no responsibility for the payment of any such costs.

**8. Damage to or Destruction of Property.** The Issuer shall bear the entire risk of loss, damage, theft, or destruction of the Property from any and every cause whatsoever, and no loss, damage, destruction, or other event shall release the Issuer from the obligation to pay the full amount of the payments or from any other obligation under this Finance Contract.

**9. No Warranty.** EXCEPT FOR REPRESENTATIONS, WARRANTIES, AND SERVICE AGREEMENTS RELATING TO THE PROPERTY MADE OR ENTERED INTO BY THE MANUFACTURERS OR SUPPLIERS OF THE PROPERTY, IF ANY, ALL OF WHICH ARE HEREBY ASSIGNED TO THE ISSUER, GCC HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE PROPERTY DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO SPECIFICATION OR PURCHASE ORDER. All such risks shall be borne by the Issuer without in any way excusing it from its obligations under this Finance Contract, and GCC shall not be liable for any damages on account of such risks. All claims or actions on any warranty so assigned shall be made or prosecuted by the Issuer, at its sole expense, upon prior written notice to GCC. GCC or its assigns may, but shall have no obligation whatsoever to, participate in a claim on any warranty. Any recovery under such a warranty shall be made payable jointly to both parties.

**10. Evidence of Indebtedness and Security Agreement.**

**(a)** An executed copy of this Finance Contract shall evidence the indebtedness of the Issuer as provided herein and shall constitute a security agreement pursuant to applicable law, with GCC, its successors or assigns as the secured party. The grants, lien, pledge and security interest of GCC, its successors or assigns created herein shall become effective immediately upon and from the Schedule Date of the EXHIBIT B, and the same shall be continuously effective for so long as any Finance Contract Payments are outstanding.

**(b)** A fully executed copy of this Finance Contract and the proceedings authorizing same shall be kept at all times and shall be filed and recorded as a security agreement among the permanent records of the Issuer. Such records shall be open for inspection to any member of the general public and to any individual, firm, corporation, governmental entity or other person proposing to do or doing business with, or having or asserting claims against the Issuer, at all times during regular business hours.

**(c)** If, in the opinion of counsel to the Issuer or to GCC, its successors or assigns, applicable law ever requires filings additional to the filing pursuant to subsection (b) of this section in order to preserve and protect the priority of the grants, assignments, lien, pledge and security interest of GCC, its successors or assigns created herein as to all Payments, then the Issuer shall diligently and regularly make such filings to the extent required by law to accomplish such result.

**11. Default and Remedies.**

**(a)** Each of the following occurrences or events for the purpose of this Finance Contract is hereby declared to be an Event of Default:

**(1)** the failure to make payment of the Payment when the same becomes due and payable; or

**(2)** default in the performance or observance of any other covenant agreement or obligation of the Issuer, which default materially, adversely affects the rights of GCC or its successors or assigns, including, but not limited to, its prospect or ability to be repaid in accordance with this Finance Contract, and the continuation thereof for a period of 20 days after notice of such default is given by GCC or any successors or assigns of GCC to the Issuer.

**(b) Remedies for Default.**

**(1)** Upon the happening of any Event of Default, then and in every case GCC or its successors or assigns, or an authorized representative thereof, including, but not limited to, an attorney or trustee therefore, may proceed against the Issuer for the purpose of protecting and enforcing the rights of GCC or its successors or assigns under this Finance Contract, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of GCC or its successors or assigns or any combination of such remedies; provided that none of such parties shall have any right to declare the balance of the Finance Contract Payments to be immediately due and payable as a remedy because of the occurrence of an Event of Default.

**(2)** The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy, and no delay or omission to exercise any right or power occurring upon any Event of Default shall impair any such right or power or be construed to be a waiver thereof and all such rights and powers may be exercised as often as may be deemed expedient.

**(c) Remedies Not Exclusive.**

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

**12. Assignment.** Without GCC's prior written consent, the Issuer will not either **(a)** assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Finance Contract or the Property or any interest in this Finance Contract or the Property; or **(b)** sublet or lend the Property or permit it to be used by anyone other than the Issuer or the Issuer's employees and other authorized users. GCC may assign its rights, title and interest in and to this Finance Contract, and any other documents executed with respect to this Finance Contract and/or grant or assign a security interest in this Finance Contract, in whole or in part. Such successors and assigns of GCC shall have the right to further grant or assign a security interest in this Finance Contract, as well as the rights to Payments hereunder, in whole or in part, to any third party. No assignment or reassignment of GCC's rights, title or interest in this Finance Contract shall be effective with regard to the Issuer unless and until the Issuer shall have received a copy of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee. The Issuer shall maintain written records of any assignments of the Finance Contract.

**13. Personal Property.** The Property is and shall at all times be and remain personal property, and will not be considered a fixture to any real property.

**14. GCC's Right to Perform for The Issuer.** If the Issuer fails to make any payment or perform or comply with any of its covenants or obligations hereunder, GCC or GCC's successors or assigns may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of the Issuer, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by GCC or GCC's successors or assigns in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate under the State of Texas law, shall be payable by the Issuer upon demand.

**15. Interest on Default.** If the Issuer fails to pay any Payment specified herein within twenty (20) days after the due date thereof, the Issuer shall pay to GCC or any successor or assigns of GCC, interest on such delinquent payment at the highest rate allowed by Texas law.

**16. Notices.** Any notices to be given or to be served upon any party hereto in connection with this Finance Contract must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after mailing. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Finance Contract or at such other address as either party may hereafter designate.

**17. Prepayment.**

(a) The Issuer shall have the right, at its option, to prepay the Finance Act Contract in whole, on any payment date which has an amount shown in the "Early Redemption Value" column of Exhibit B attached hereto. "N/A" shall mean not prepayable. The Issuer shall not have the right to prepay the Finance Contract in part at any time.

(b) As condition precedent to the Issuer's right to make, and GCC's obligation to accept, any such prepayment, GCC shall have actually received notice at least thirty (30) days in advance of the Issuer's intent to exercise its option to prepay.

**18. Continuing Disclosure.** Specifically and without limitation, the Issuer agrees to provide audited financial statements, prepared by a certified public accountant not later than six (6) months after and as of the end of each fiscal year. Periodic financial statements shall include a combined balance sheet as of the end of each such period, and a combined statement of revenues, expenditures and changes in fund balances, from the beginning of the then fiscal year to the end of such period. These reports must be certified as correct by one of the Issuer's authorized agents. If the Issuer has subsidiaries, the financial statements required will be provided on a consolidated and consolidation basis.

**19. Tax Exemption.**

(a) The Issuer certifies that it does not reasonably anticipate more than \$10,000,000 of "tax-exempt obligations", including this Finance Contract will be issued by it and any subordinate entities during the 2019 calendar year. Further, the Issuer designates this Finance Contract as "qualified tax exempt obligations" under Section 265 (b) 3 of the Internal Revenue Code of 1986, as amended (the "Code") eligible for the exception contained in Section 265 (b) 3 (D) of the Code allowing for an exception to the general rule of the Code which provides for a total disallowance of a deduction for interest expense allocable to the carrying of tax exempt obligations.

(b) The Issuer hereby represents and covenants that the proceeds of this Finance Contract are needed at this time to provide funds for the Issuer's purchase of the property for which this Finance Contract was executed and delivered, as specified in this Finance Contract; that (i) final disbursement of the proceeds of this Finance Contract will occur within three years from the Schedule Date of the EXHIBIT B, (ii) substantial binding obligations to expend at least five (5) percent of the net proceeds will be incurred within six months after the Schedule Date of the EXHIBIT B and (iii) the acquisition of such property will proceed with due diligence to completion; and that, except for the Escrow Agreement, if applicable, and the Payment Fund, no other funds or accounts have been or will be established or pledged to the payment of this Finance Contract.

(c) The Issuer will not directly or indirectly take any action or omit to take any action, which action or omission would cause the Finance Contract to constitute a "private activity bond" within the meaning of Section 141(a) of the Code.

(d) The Issuer will not take any action or fail to take any action with respect to the investment of the proceeds of this Finance Contract or any other funds of the Issuer, including amounts received from the investment of any of the foregoing, that would cause this Finance Contract to be an "arbitrage bond" within the meaning of such section 148 of the Code.

(e) There are no other obligations of the Issuer which are sold at substantially the same time as the Finance Contract, sold pursuant to the same plan of financing with the Finance Contract and are reasonably expected to be paid from substantially the same source of funds as the Finance Contract.

(f) The Issuer will not take any action, or as the case may be, knowingly omit to take any action within its control that, if taken or omitted, as the case may be, would cause the Finance Contract to be treated as "federally guaranteed" obligations for purposes of Section 149(b) of the Code.

(g) The Issuer will take all necessary steps to comply with the requirement that certain amounts earned by the Issuer on the investment of the "gross proceeds" of the Finance Contract (within the meaning of Section 148(f)(6)(B) of the Code), if any, be rebated to the federal government. Specifically, the Issuer will (i) maintain records regarding the investment of the gross proceeds of the Finance Contract as may be required to calculate and substantiate the amount earned on the investment of the gross proceeds of the Finance Contract and retain such records for at least six years after the day on which the last outstanding Finance Contract is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, including any specified method of accounting required by applicable regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable regulations, the amount earned from the investment of the gross proceeds of the Finance Contract and (iv) timely pay all amounts required to be rebated to the federal government. In addition, the Issuer will correct any errors within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalty, if any, as may be necessary or appropriate to assure that interest on the Finance Contract is not includable in the gross income for federal income tax purposes.

(h) The Issuer will timely file with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Finance Contract on such form and in such place as the Secretary may prescribe. Notwithstanding any other provision of this Finance Contract, the Issuer's obligation under the covenants and provisions of this Section 19 shall survive the defeasance and discharge of this Finance Contract.

**20. Miscellaneous.**

(a) Time is of the essence. No covenant or obligations hereunder to be performed by the Issuer are waived, except by the written consent of GCC or its successors or assigns. GCC's or its successors or assigns' rights hereunder are cumulative and not alternative.

(b) This Finance Contract shall be construed in accordance with, and governed by the state of Texas laws.

(c) This Finance Contract constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both GCC and the Issuer.

(d) Any term or provision of this Finance Contract found to be prohibited by law or unenforceable shall not affect the legality the remainder of this Finance Contract.

(e) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever appropriate.

(f) The captions set forth herein are for convenience of reference only, and shall not define or limit any of the terms or provisions hereof.

(g) Issuer agrees to equitably adjust the payments payable under this Finance Contract if there is a determination by the IRS that the interest payable pursuant to this Finance Contract (as incorporated within the schedule of payments) is not excludable from income in accordance with the Internal Revenue Code of 1986, as amended, such as to make GCC and its assigns whole.

(h) Except as otherwise provided, this Finance Contract shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Finance Contract.

(i) In accordance with Texas Government Code sections 2270.001-2270.002, GCC verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.

(j) THIS CONTRACT IS EVIDENCE OF A PRIVATELY PLACED BANK LOAN, IS NOT IN REGISTERED FORM, AND MAY NOT BE TRANSFERRED TO BEARER. TRANSFERS OF THIS CONTRACT ARE NOT REGISTERED ON BOOKS MAINTAINED FOR THAT PURPOSE BY THE ISSUER.

IN WITNESS WHEREOF, the parties have executed this Finance Contract as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2020.

Government Capital Corporation

\_\_\_\_\_  
Authorized Signature  
345 Miron Dr.  
Southlake, TX 76092

Witness Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**The Issuer:** City of Kingsville

\_\_\_\_\_  
Mark McLaughlin, City Manager  
400 W King Ave.  
Kingsville, TX 78363

Witness Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**EXHIBIT A**

Public Property Finance Act Contract **No.8949** (THE "FINANCE CONTRACT")  
By And Between  
Government Capital Corporation and **the Issuer**, City of Kingsville  
Dated as of December 9, 2019

**QTY**                      **DESCRIPTION**

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Personal Property                                      Property Cost: \$314,043.41                                      Payback Period: Seven (7) Annual Payments

**Articulated Dump Truck**

One (1)                      2020 Model 260E Dump Truck with Tailgate

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PROPERTY LOCATION:  
4000 W King Avenue  
Kingsville, TX 78363

## EXHIBIT B

### >> SCHEDULE OF PAYMENTS & EARLY REDEMPTION VALUE <<

PUBLIC PROPERTY FINANCE ACT CONTRACT NO.8949 (THE "FINANCE CONTRACT")

BY AND BETWEEN

Government Capital Corporation and the **Issuer**, City of Kingsville

Schedule Dated as of December 31, 2019

| PMT NO.      | PMT DATE<br>MO. DAY YR | TOTAL<br>PAYMENT | INTEREST<br>PAID | PRINCIPAL<br>PAID | EARLY REDEMPTION VALUE<br>after pmt on this line |
|--------------|------------------------|------------------|------------------|-------------------|--|
| 1            | 12/31/2020             | \$51,302.58      | \$10,897.31      | \$40,405.27       | N/A  |
| 2            | 12/31/2021             | \$51,302.58      | \$9,495.24       | \$41,807.34       | N/A  |
| 3            | 12/31/2022             | \$51,302.58      | \$8,044.53       | \$43,258.05       | N/A  |
| 4            | 12/31/2023             | \$51,302.58      | \$6,543.47       | \$44,759.11       | \$146,805.38                                     |
| 5            | 12/31/2024             | \$51,302.58      | \$4,990.33       | \$46,312.25       | \$99,026.13                                      |
| 6            | 12/31/2025             | \$51,302.58      | \$3,383.30       | \$47,919.28       | \$50,100.18                                      |
| 7            | 12/31/2026             | \$51,302.58      | \$1,720.47       | \$49,582.11       | \$0.00   |
| Grand Totals |                        | \$359,118.06     | \$45,074.65      | \$314,043.41      |  |

Interest Rate: 3.47%

**INCUMBENCY CERTIFICATE**

Public Property Finance Act Contract **No.8949** (THE "FINANCE CONTRACT")

By And Between

Government Capital Corporation and **the Issuer**, City of Kingsville

Dated as of December 9, 2019

I, Mary Valenzuela, do hereby certify that I am the duly elected or appointed and acting City Secretary, of City of Kingsville, Issuer, a political subdivision or agency of the State of Texas, duly organized and existing under the laws of the State of Texas, that I or my designee have custody of the records of such entity, and that, as of the date hereof, the individual(s) named below are the duly elected or appointed officer(s) of such entity holding the office(s) set forth opposite their respective name(s). I further certify that (i) the signature(s) set opposite their respective name(s) and title(s) are their true and authentic signature(s), and (ii) such officers have the authority on behalf of such entity to enter into that certain Public Property Finance Act Contract No.8949, between City of Kingsville (the "Issuer") and Government Capital Corporation ("GCC").

| <u>Name</u>     | <u>Title</u> | <u>Signature</u> |
|-----------------|--------------|------------------|
| Mark McLaughlin | City Manager | _____            |

IN WITNESS WHEREOF, I have duly executed this certificate hereto this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Mary Valenzuela, City Secretary

P.O. BOX 1458 - KINGSVILLE, TEXAS 78364

Government Capital Corporation  
345 Miron Dr  
Southlake, TX 76092

RE: Public Property Finance Act Contract No.8949

I have examined the Public Property Finance Act Contract No.8949 (the "Finance Contract") between the City of Kingsville (the "Issuer") and Government Capital Corporation ("GCC"). The Finance Contract provides financing for the purchase by the City of Kingsville of certain Property as identified in the Finance Contract and provides that the Issuer shall finance the Property by making Payments as specified in the Public Property Finance Act Contract No.8949.

I have also examined other certificates and documents as I have deemed necessary and appropriate under the circumstances.

Based upon the foregoing examination, I am of the opinion that:

1. The Issuer is a political subdivision or agency of the State of Texas with the requisite power and authority to incur obligations, the interest on which is exempt from taxation by virtue of Section 103(a) of the Internal Revenue Code of 1986, as amended;
2. The execution, delivery and performance by the Issuer of the Finance Contract have been duly authorized by all necessary action on the part of the Issuer; and
3. The Finance Contract constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms.

The opinion expressed above is solely for the benefit of the Issuer, GCC and/or its subsequent successors or assigns.

Sincerely,

Attorney at Law

**RESOLUTION**

**A RESOLUTION REGARDING A CONTRACT FOR THE PURPOSE OF FINANCING AN  
"ARTICULATED DUMP TRUCK".**

WHEREAS, City of Kingsville (the "Issuer") desires to enter into that certain Finance Contract No.8949, by and between the Issuer and Government Capital Corporation ("GCC") for the purpose of financing an "Articulated Dump Truck". The Issuer desires to designate this Finance Contract as a "qualified tax exempt obligation" of the Issuer for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, BE IT RESOLVED BY CITY OF KINGSVILLE:

Section 1. That the Issuer will enter into a Finance Contract with GCC for the purpose of financing an "Articulated Dump Truck".

Section 2. That the Finance Contract dated as of December 9, 2019, by and between the City of Kingsville and GCC is designated by the Issuer as a "qualified tax exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

Section 3. That the Issuer appoints the City Manager or their designee, as the authorized signer of the Finance Contract Number 8949 dated as of December 9, 2019, by and between the City of Kingsville and GCC as well as any other ancillary exhibit, certificate, or documentation needed for the Contract.

Section 4. That should the need arise, if applicable, the City will use loan proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

This Resolution has been PASSED upon Motion made by Board Member \_\_\_\_\_, seconded by Board Member \_\_\_\_\_ by a vote of \_\_\_\_\_ to \_\_\_\_\_ and is effective this \_\_\_\_\_, 2019.

**Issuer:** City of Kingsville

Witness Signature

\_\_\_\_\_  
Sam Fugate, Mayor

\_\_\_\_\_  
Mary Valenzuela, City Secretary

## **WIRE TRANSFER FORM**

\*\*\* FINANCIAL INSTITUTION INFORMATION \*\*\*

Bank's Name: \_\_\_\_\_

Bank's Address: \_\_\_\_\_

Bank's Phone#: \_\_\_\_\_

Bank's Fed Routing#: \_\_\_\_\_

(Please confirm with bank since it may be different from routing number on deposit slip)

Bank Account Name: \_\_\_\_\_

Bank Account #: \_\_\_\_\_

Ref (if needed): \_\_\_\_\_

\_\_\_\_\_

**Please note that while there will not be a charge for our outgoing wire, your Bank may charge a fee for the incoming wire**

I hereby authorize Government Capital Corporation to transfer any monies due via wire transfer directly to our bank.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

|  |   |   |
|--|---|---|
| Print or type.<br>See Specific Instructions on page 3. | <p><b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p>   |   |
|  | <p><b>2</b> Business name/disregarded entity name, if different from above</p>  |   |
|  | <p><b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC    <input type="checkbox"/> C Corporation    <input type="checkbox"/> S Corporation    <input type="checkbox"/> Partnership    <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p><b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p> | <p><b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p> |
|  | <p><b>5</b> Address (number, street, and apt. or suite no.) See instructions.</p>   | <p>Requester's name and address (optional)</p>  |
|  | <p><b>6</b> City, state, and ZIP code</p>   |   |
|  | <p><b>7</b> List account number(s) here (optional)</p>  |   |

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

|  |   |  |  |  |   |   |  |  |
|--|---|--|--|--|---|---|--|--|
| <b>Social security number</b>  |   |  |  |  |   |   |  |  |
| <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> </tr> <tr> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td></td> <td></td> </tr> </table> |   |  |  |  | - | - |  |  |
|  |   |  |  |  |   |   |  |  |
| -  | - |  |  |  |   |   |  |  |
| <b>or</b>  |   |  |  |  |   |   |  |  |
| <b>Employer identification number</b>  |   |  |  |  |   |   |  |  |
| <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> </tr> <tr> <td style="text-align: center;">-</td> <td></td> <td></td> <td></td> </tr> </table>                              |   |  |  |  | - |   |  |  |
|  |   |  |  |  |   |   |  |  |
| -  |   |  |  |  |   |   |  |  |

### Part II Certification

- Under penalties of perjury, I certify that:
- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
  - I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
  - I am a U.S. citizen or other U.S. person (defined below); and
  - The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

|                  |   |                     |
|------------------|---|---------------------|
| <b>Sign Here</b> | <p>Signature of U.S. person ▶ _____</p> | <p>Date ▶ _____</p> |
|------------------|---|---------------------|

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

**Information Return for Tax-Exempt Governmental Bonds**

(Rev. September 2018)

▶ Under Internal Revenue Code section 149(e)

▶ See separate instructions.

OMB No. 1545-0720

Department of the Treasury  
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.  
▶ Go to [www.irs.gov/F8038G](http://www.irs.gov/F8038G) for instructions and the latest information.

| Part I Reporting Authority   |            | If Amended Return, check here <input type="checkbox"/>                         |
|--|------------|--|
| 1 Issuer's name<br>City of Kingsville  |            | 2 Issuer's employer identification number (EIN)<br>74-6001513                  |
| 3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)<br>Charlie Sosa, Purchasing Manager             |            | 3b Telephone number of other person shown on 3a<br>361-595-8025                |
| 4 Number and street (or P.O. box if mail is not delivered to street address)<br>PO Box 1458  | Room/suite | 5 Report number (For IRS Use Only)<br>3  |
| 6 City, town, or post office, state, and ZIP code<br>Kingsville, TX 78364  |            | 7 Date of issue<br>January 13, 2020  |
| 8 Name of issue<br>Public Property Finance Act Contract No.8949  |            | 9 CUSIP number<br>None   |
| 10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)<br>Mark McLaughlin, City Manager |            | 10b Telephone number of officer or other employee shown on 10a<br>361-595-8025 |

| Part II Type of Issue (enter the issue price). See the instructions and attach schedule. |                          |    |
|--|--------------------------|----|
| 11 Education   |                          |    |
| 12 Health and hospital   |                          |    |
| 13 Transportation  |                          |    |
| 14 Public safety   |                          |    |
| 15 Environment (including sewage bonds)  |                          |    |
| 16 Housing   |                          |    |
| 17 Utilities   |                          |    |
| 18 Other. Describe ▶ Articulated Dump Truck  | \$314,043                | 41 |
| 19a If bonds are TANs or RANs, check only box 19a  | <input type="checkbox"/> |    |
| b If bonds are BANs, check only box 19b  | <input type="checkbox"/> |    |
| 20 If bonds are in the form of a lease or installment sale, check box                    | <input type="checkbox"/> |    |

| Part III Description of Bonds. Complete for the entire issue for which this form is being filed. |                         |                 |   |                               |           |
|--|-------------------------|-----------------|---|-------------------------------|-----------|
|  | (a) Final maturity date | (b) Issue price | (c) Stated redemption price at maturity | (d) Weighted average maturity | (e) Yield |
| 21   | 12/31/2026              | \$ 314,043.41   | \$ 314,043.41                           | 4.136 years                   | 3.47 %    |

| Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)                   |  |              |
|---|--|--------------|
| 22 Proceeds used for accrued interest   |  | N/A          |
| 23 Issue price of entire issue (enter amount from line 21, column (b))                      |  | \$314,043 41 |
| 24 Proceeds used for bond issuance costs (including underwriters' discount)                 |  | N/A          |
| 25 Proceeds used for credit enhancement   |  | N/A          |
| 26 Proceeds allocated to reasonably required reserve or replacement fund                    |  | N/A          |
| 27 Proceeds used to refund prior tax-exempt bonds. Complete Part V                          |  | N/A          |
| 28 Proceeds used to refund prior taxable bonds. Complete Part V                             |  | N/A          |
| 29 Total (add lines 24 through 28)  |  | N/A          |
| 30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) |  | 314,043 41   |

| Part V Description of Refunded Bonds. Complete this part only for refunding bonds.        |   |           |
|---|---|-----------|
| 31 Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded   | ▶ | N/A years |
| 32 Enter the remaining weighted average maturity of the taxable bonds to be refunded      | ▶ | N/A years |
| 33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) | ▶ | N/A       |
| 34 Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)                        |   |           |

**Part VI Miscellaneous**

- 35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . . **35**
- 36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions . . . . . **36a**
  - b Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) \_\_\_\_\_
  - c Enter the name of the GIC provider ▶ \_\_\_\_\_
- 37 Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . . **37**
- 38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box  and enter the following information:
  - b Enter the date of the master pool bond ▶ (MM/DD/YYYY) \_\_\_\_\_
  - c Enter the EIN of the issuer of the master pool bond ▶ \_\_\_\_\_
  - d Enter the name of the issuer of the master pool bond ▶ \_\_\_\_\_
- 39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . . ▶
- 40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . . ▶
- 41a If the issuer has identified a hedge, check here  and enter the following information:
  - b Name of hedge provider ▶ \_\_\_\_\_
  - c Type of hedge ▶ \_\_\_\_\_
  - d Term of hedge ▶ \_\_\_\_\_
- 42 If the issuer has superintegrated the hedge, check box . . . . . ▶
- 43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . ▶
- 44 If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . ▶
- 45a If some portion of the proceeds was used to reimburse expenditures, check here  and enter the amount of reimbursement . . . . . ▶ \_\_\_\_\_
  - b Enter the date the official intent was adopted ▶ (MM/DD/YYYY) \_\_\_\_\_

|                               |   |                      |                               |  |
|-------------------------------|---|----------------------|-------------------------------|--|
| <b>Signature and Consent</b>  | Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above. |                      |                               |  |
|                               | Signature of issuer's authorized representative   | Date                 | Mark McLaughlin, City Manager | Type or print name and title                         |
| <b>Paid Preparer Use Only</b> | Print/Type preparer's name  | Preparer's signature | Date                          | Check <input type="checkbox"/> if self-employed PTIN |
|                               | Firm's name ▶   | Firm's EIN ▶         |                               |  |
|                               | Firm's address ▶  | Phone no.            |                               |  |

# **AGENDA ITEM #6**

**City of Kingsville  
Finance Department**

---

TO: Mayor and City Commissioners  
CC: Mark McLaughlin City Manager  
FROM: Charlie Sosa, Purchasing Manager  
DATE: December 19, 2019  
SUBJECT: Purchase of Five (5) New Outfitted Police Vehicles for Police Department

---

**Summary:**

This item authorizes the entering into a public property finance contract with Government Capital Corporation to purchase Five (5) New outfitted Police Vehicles for Police Department from Lake Country Chevrolet thorough Goodbuy Purchasing Cooperative Contract 19-8F000 Vehicles for the City of Kingsville Police Department.

**Background:**

Five (5) New Outfitted Police Vehicles are needed for the Police Department's deteriorating fleet, which has met and exceeded the life the of vehicles. The police department vehicle maintenance account has gone over budget over the past few years due to the outdated police vehicles. The five (5) new outfitted vehicles will replace the old police cruisers, which have lately spent more time in city garage than on streets for public safety. The Police Department has gone over 10 years without asking for funds to replace police fleet due to the Chapter 59 Forfeiture Funds. Experiencing the decline of Chapter 59 Forfeiture Funds, the Police Department is requesting the allocation of 5 new outfitted Tahoe's for the City of Kingsville Police Department for fiscal year 2019-2020, which can be made possible through a 7-year capital lease agreement. Please see attached Government Capital Corporation contract.

**Financial Impact:**

Funds are available through 001-5-2102-71100 Capital Lease, Year One of which \$70,655.00 are available this fiscal year. The amount of the five (5) vehicles will be \$344,956.32 over seven years at an annual amount of \$49,280.76 for the first year, please refer to contract attached and Exhibit B Schedule of payments.

**Recommendation:**

It is recommended the City enter into a public property finance contract with Government Capital Corporation to cover the purchase Five (5) New Police Vehicles for Police Department from Lake Country Chevrolet thorough Goodbuy Purchasing Cooperative Contract 19-8F000 Vehicles for the City of Kingsville Police Department. Goodbuy is a member of the Purchasing Cooperative which meets Local government code 271 Subchapter F allows for the use of a cooperative purchasing program, specifically 271.102 (c), states, "A local government that purchases good and service under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of goods and service." Therefore, competitive bidding statutes have been met.





City of Kingsville, TX

# Budget Report Account Summary

For Fiscal: 10/2019-09/2020 Period Ending: 01/31/2020

|  | Fund: 001 - GENERAL FUND | Expense | Original<br>Total Budget | Current<br>Total Budget | Period<br>Activity | Fiscal<br>Activity | Encumbrances    | Variance            |                      |
|--|--------------------------|---------|--------------------------|-------------------------|--------------------|--------------------|-----------------|---------------------|----------------------|
|  |                          |         |                          |                         |                    |                    |                 | (Unfavorable)       | Percent<br>Remaining |
| Salaries & Wages                       |                          |         | 1,640,092.00             | 1,640,092.00            | 0.00               | 333,136.69         | 0.00            | 1,306,955.31        | 79.69 %              |
| Overtime                               |                          |         | 139,977.00               | 139,977.00              | 0.00               | 57,200.54          | 0.00            | 82,776.46           | 59.14 %              |
| Longevity                              |                          |         | 24,505.00                | 24,505.00               | 0.00               | 4,535.98           | 0.00            | 19,969.02           | 81.49 %              |
| Longevity - Non Civil Service          |                          |         | 312.00                   | 312.00                  | 0.00               | 66.48              | 0.00            | 245.52              | 78.69 %              |
| Retirement - TMRS                      |                          |         | 163,288.00               | 163,288.00              | 0.00               | 35,319.93          | 0.00            | 127,968.07          | 78.37 %              |
| FICA                                   |                          |         | 141,147.00               | 141,147.00              | 0.00               | 29,810.58          | 0.00            | 111,336.42          | 78.88 %              |
| Group Health Insurance                 |                          |         | 423,882.00               | 423,882.00              | 0.00               | 90,891.78          | 0.00            | 332,990.22          | 78.56 %              |
| Workers' Compensation                  |                          |         | 20,286.00                | 20,286.00               | 0.00               | 2,694.48           | 0.00            | 17,591.52           | 86.72 %              |
| Unemployment Compensation              |                          |         | 7,875.00                 | 7,875.00                | 0.00               | 28.64              | 0.00            | 7,846.36            | 99.64 %              |
| Educational Incentive                  |                          |         | 13,201.00                | 13,201.00               | 0.00               | 3,425.36           | 0.00            | 9,775.64            | 74.05 %              |
| Certification Pay                      |                          |         | 26,968.00                | 26,968.00               | 0.00               | 4,560.00           | 0.00            | 22,408.00           | 83.09 %              |
| Life Insurance                         |                          |         | 3,489.00                 | 3,489.00                | 271.62             | 1,061.10           | 0.00            | 2,427.90            | 69.59 %              |
| Supplies                               |                          |         | 5,120.00                 | 5,120.00                | 0.00               | 2,126.35           | 273.09          | 2,720.56            | 53.14 %              |
| Uniforms & Personal Wear               |                          |         | 15,000.00                | 15,000.00               | 0.00               | 352.59             | 0.00            | 14,647.41           | 97.65 %              |
| Motor Gas & Oil                        |                          |         | 90,670.00                | 90,670.00               | 0.00               | 14,831.50          | 0.00            | 75,838.50           | 83.64 %              |
| Minor Eq/Furniture                     |                          |         | 9,100.00                 | 9,100.00                | 0.00               | 1,225.00           | 0.00            | 7,875.00            | 86.54 %              |
| Animal Care                            |                          |         | 1,000.00                 | 1,000.00                | 0.00               | 107.98             | 0.00            | 892.02              | 89.20 %              |
| Computers & Associated Equip           |                          |         | 1,000.00                 | 1,000.00                | 0.00               | 79.79              | 0.00            | 920.21              | 92.02 %              |
| Professional Services                  |                          |         | 2,500.00                 | 2,500.00                | 0.00               | 319.25             | 0.00            | 2,180.75            | 87.23 %              |
| Printing & Publishing                  |                          |         | 2,500.00                 | 2,500.00                | 0.00               | 349.34             | 0.00            | 2,150.66            | 86.03 %              |
| Training & Travel                      |                          |         | 18,000.00                | 18,000.00               | 0.00               | 1,974.22           | 0.00            | 16,025.78           | 89.03 %              |
| Laundry                                |                          |         | 7,000.00                 | 7,000.00                | 0.00               | 654.71             | 2,150.00        | 4,195.29            | 59.93 %              |
| Jail Contract Expense                  |                          |         | 150,000.00               | 150,000.00              | 0.00               | 0.00               | 0.00            | 150,000.00          | 100.00 %             |
| Vehicle Maintenance                    |                          |         | 44,000.00                | 44,000.00               | 0.00               | 7,817.32           | 1,586.35        | 34,596.33           | 78.63 %              |
| Equipment Maintenance                  |                          |         | 2,000.00                 | 2,000.00                | 0.00               | 0.00               | 0.00            | 2,000.00            | 100.00 %             |
| Capital Lease Principle                |                          |         | 70,655.00                | 70,655.00               | 0.00               | 0.00               | 0.00            | 70,655.00           | 100.00 %             |
| Vehicle                                |                          |         | 320,000.00               | 320,000.00              | 0.00               | 0.00               | 0.00            | 320,000.00          | 100.00 %             |
| <b>Expense Total:</b>                  |                          |         | <b>3,343,567.00</b>      | <b>3,343,567.00</b>     | <b>271.62</b>      | <b>592,569.61</b>  | <b>4,009.44</b> | <b>2,746,987.95</b> | <b>82.16 %</b>       |
| <b>Fund: 001 - GENERAL FUND Total:</b> |                          |         | <b>3,343,567.00</b>      | <b>3,343,567.00</b>     | <b>271.62</b>      | <b>592,569.61</b>  | <b>4,009.44</b> | <b>2,746,987.95</b> | <b>82.16 %</b>       |
| <b>Report Total:</b>                   |                          |         | <b>3,343,567.00</b>      | <b>3,343,567.00</b>     | <b>271.62</b>      | <b>592,569.61</b>  | <b>4,009.44</b> | <b>2,746,987.95</b> | <b>82.16 %</b>       |

### Fund Summary

| Fund                 | Original<br>Total Budget | Current<br>Total Budget | Period<br>Activity | Fiscal<br>Activity | Encumbrances    | Variance                   |                      |
|----------------------|--------------------------|-------------------------|--------------------|--------------------|-----------------|----------------------------|----------------------|
|                      |                          |                         |                    |                    |                 | Favorable<br>(Unfavorable) | Percent<br>Remaining |
| 001 - GENERAL FUND   | 3,343,567.00             | 3,343,567.00            | 271.62             | 592,569.61         | 4,009.44        | 2,746,987.95               | 82.16 %              |
| <b>Report Total:</b> | <b>3,343,567.00</b>      | <b>3,343,567.00</b>     | <b>271.62</b>      | <b>592,569.61</b>  | <b>4,009.44</b> | <b>2,746,987.95</b>        | <b>82.16 %</b>       |

**RESOLUTION #2019- 107**

**A RESOLUTION REGARDING A CONTRACT FOR THE PURPOSE OF FINANCING "VEHICLES" THROUGH GOVERNMENT CAPITAL CORPORATION; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville, Texas (the "Issuer" or "City") desires to enter into a certain Finance Contract by and between the Issuer and Government Capital Corporation ("GCC") for the purpose of financing "Vehicles" and desires to designate this Finance Contract as a "qualified tax exempt obligation" of the Issuer for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the City will locate the needed vehicles through a purchasing cooperative program to be in compliance with Texas procurement law;

**WHEREAS**, the City will then negotiate a Finance Contract with GCC for the equipment, which will be brought to Commission for approval.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**THAT**, once terms of a mutually agreeable Finance Contract have been negotiated between the City and GCC for the purpose of financing "Vehicles", the City will consider a resolution to approve the Finance Contract.

**THAT**, the City intends that the Finance Contract by and between the City and GCC will be designated by the Issuer as a "qualified tax exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

**THAT**, once terms of a mutually agreeable Finance Contract have been negotiated between the City and GCC, the City intends to consider an authorizing resolution to appoint the City Manager or their designee, as the authorized signer of the Finance Contract by and between the City and GCC as well as any other ancillary exhibit, certificate, or documentation needed for the Contract.

**THAT**, once terms of a mutually agreeable Finance Contract have been negotiated between the City and GCC, the City intends to consider an authorizing resolution stating that should the need arise, if applicable, the City will use loan proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation Section 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

THAT this Resolution shall be and become effective on and after adoption.

THAT this resolution was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 9th day of December, 2019.

  
Sam R. Fugate, Mayor

**ATTEST:**

  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

  
Courtney Alvarez, City Attorney

**KINGSVILLE POLICE DEPARTMENT  
BUDGET TO OUTFIT 5 CHEVY TAHOES**

| QUANTITY           | DESCRIPTION  | Total Cost           |
|--------------------|--|----------------------|
| 4                  | CHEVROLET 2020 Police Pursuit 4x2 5.3L V8                                | \$ 201,680.80        |
| 1                  | CHEVROLET 2020 Police Pursuit 4x2 5.3L V8                                | \$ 45,432.00         |
| 5                  | XG-75 Mobile, Scan Remote Mount, 764/870 MHz radios                      | \$ 18,827.80         |
| 1                  | Unity XB-100M Mobile VHF, 700/800MHz                                     | \$ 5,131.42          |
| 5                  | FOCUS H1 IN-CAR SYSTEM PACKAGE 3 w/0 BODY CAMERA OR WIRELESS MICROPHONES | \$ 30,595.00         |
| <b>GRAND TOTAL</b> |  | <b>\$ 301,667.02</b> |

Total Financed

31,992.00 +  
1,348.00 +  
15,309.60 ÷  
763.00 +  
50,412.60 \*

50,412.60 +  
50,345.20 -  
50,345.20 \*

50,345.20 x  
4 =  
201,380.80 \*

201,380.80 +  
370.00 +  
201,680.80 \*



Goodbuy Program of the City, State, and County of Kingsville, Texas

**PRODUCT PRICING SUMMARY**  
**GOODBUY 19-8F000 VEHICLES**  
**VENDOR-LAKE COUNTRY CHEVROLET**

End User: CITY OF KINGSVILLE  
 Contact: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Product Description: CHEVY TAHOE PPV

Prepared by: MICHAEL WILEY  
 Phone: 254-541-9061  
 Email: mwiley.silsbeefleet@gmail.com  
 Date: October 29, 2019

A. Bid Item: 7.6 ALT A. Base Price: \$ 31,992.00

B. Factory Options

| Code | Options                      | Bid Price | Code | Options               | Bid Price |
|------|------------------------------|-----------|------|-----------------------|-----------|
|      |                              | \$ -      | 7X6  | DRIVER SIDE SPOTLIGHT | \$ 490.00 |
| 9C1  | 2020 POLICE PURSUIT UNIT 4X2 | \$ 858.00 |      |                       |           |
|      | 5.3L V8; 6-SPD AUTOMATIC     | INCL      |      |                       |           |
|      | CLOTH FRONT BUCKETS          | INCL      |      |                       |           |
|      | VINYL 2ND TOW; RUBBER FLOOR  | INCL      |      |                       |           |
|      | AM/FM/BLUETOOTH              | INCL      |      |                       |           |
|      | POWER WINDOWS AND LOCKS      | INCL      |      |                       |           |
|      | CRUISE CONTROL               | INCL      |      |                       |           |

Total of B. Published Options: \$ 1,348.00

Published Option Discount (5%) \$ (67.40)

C. Additional Options [not to exceed 25%]

\$= 0.0 %

| Options                                    | Bid Price | Options      | Bid Price |
|--|-----------|--------------|-----------|
| BLACK                                      | COLOR     | PATROL UNITS |           |
| STOCK UNITS ARRIVING TO THIS SPEC IN       | DELIVERY  |              |           |
| JANUARY                                    |           |              |           |
| ONCE UNIT ARRIVES WILL TAKE TO FLEET SAFET |           |              |           |
| IN LA FERIA                                |           |              |           |

Total of C. Unpublished Options: \$ -

D. Floor Plan Interest (for in-stock and/or equipped vehicles): \$ -

E. Lot Insurance (for in-stock and/or equipped vehicles): \$ -

F. Subcontractor Additional Equipment: FLEET SAFETY PKG 308295-A \$ 16,309.60

G. Additional Delivery Charge: 436 miles \$ 763.00

H. Subtotal: \$ 50,345.20

I. Quantity Ordered 4 x K = \$ 201,380.80

J. Trade in: \$ -

K. GOODBUY Administrative Fee (\$300 per purchase order) \$ 300.00

L. TOTAL PURCHASE PRICE INCLUDING GOODBUY FEE \$ 201,680.80



# Sales Quote

**DANA SAFETY SUPPLY, INC**  
**4809 KOGER BLVD**  
**GREENSBORO, NC 27407**

Telephone: 800-845-0405

|                 |            |
|-----------------|------------|
| Sales Quote No. | 308295-A   |
| Customer No.    | LAKECOCHEV |

**Bill To**

LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

**Ship To**

LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

**Contact:**  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbee fleet@gmail.com

**Contact:**  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbee fleet@gmail.com

| Quote Date     | Ship Via         | F.O.B.               | Customer PO Number   | Payment Method |                |
|----------------|------------------|----------------------|--|----------------|----------------|
| 10/09/19       | GROUND           | FOB                  |  | \$             |                |
| Entered By     |                  | Salesperson          | Ordered By   | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |  |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description  | Unit Price     | Extended Price |
| 4              | 4                | N                    | INFO<br>KINGSVILLE POLICE 2020 TAHOE PATROL<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                | Y                    | EVP<br>WEC EMERGENCY VEHICLE PRODUCTS<br>Warehouse: LAFE Vin #:  | 13,609.5000    | 54,438.00      |
| 4              | 4                | Y                    | VALR51S-TX2<br>FED Valor 51" Texas Special Frt RW/BW Rear RA/BA<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                | Y                    | LOW PROFILE<br>SIFMH-3648243<br>REAR HATCH 4 A/R LED REFLECTORS CHEVY TAHOE 201:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | PF200R<br>FED SIG PATHFINDER,100/200W,REMOTE<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 8              | 8                | Y                    | ES100C<br>FED ES100/DYNAMAX 100W CLASS A SPEAKER<br>Warehouse: LAFE Vin #:<br>VEHICLE SPECIFIC MOUNTING BRACKETS<br>ARE SOLD SEPERATELY<br>***** | 0.0000         | 0.00           |

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**E-mail:** mwiley.silsbeefleet@gmail.com

**Contact:**  
**Telephone:** 254-541-9061  
**E-mail:** mwiley.silsbecfleet@gmail.com

| Quote Date     | Ship Via         | F.O.B.               | Customer PO Number  | Payment Method |                |
|----------------|------------------|----------------------|---|----------------|----------------|
| 10/09/19       | GROUND           | FOB                  |   | \$             |                |
| Entered By     |                  | Salesperson          | Ordered By  | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |   |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description   | Unit Price     | Extended Price |
| 8              | 8                | Y                    | ESB-U<br>FED DYNAMAX/ES100C UNIVERSAL SPEAKER BRACKET<br>Warehouse: LAFE Vin #:                                     | 0.0000         | 0.00           |
| 4              | 4                | Y                    | RUMBLER-3<br>FED LOW FREQUENCY TONE SIREN & SPEAKERS KIT<br>Warehouse: LAFE Vin #:<br>MOUNTING KIT SOLD SEPERATELY. | 0.0000         | 0.00           |
| 4              | 4                | Y                    | RB-TAH15<br>FED RUMBLER 2015+ TAHOE BRACKETS & HARDWARE<br>Warehouse: LAFE Vin #:                                   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | PBX04<br>FEDERAL SIGNAL TAHOE PUSH BUMPER<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | PBX-TC4L-4<br>FED SIGNAL FOUR LIGTH TOP CHANNEL FOR CHEVY TAH<br>Warehouse: LAFE Vin #:                             | 0.0000         | 0.00           |
| 4              | 4                | Y                    | PBXW-TAH15<br>FEDERAL SIGNAL WRAPS TAH15<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 8              | 8                | Y                    | MPS620U-RW<br>FS MICROPULSE Ultra Dual, 12 LED, RED/WHITE<br>Warehouse: LAFE Vin #:                                 | 0.0000         | 0.00           |

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# Sales Quote

**DANA SAFETY SUPPLY, INC**  
**4809 KOGER BLVD**  
**GREENSBORO, NC 27407**

Telephone: 800-845-0405

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| Customer No.    | LAKECOCHEV |

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 JASPER, TX 785951

**Ship To**

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**Contact:**  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbee@fleet@gmail.com

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 Telephone: 254-541-9061  
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| Quote Date     | Ship Via             | F.O.B.     | Customer PO Number  | Payment Method |                |
|----------------|----------------------|------------|---|----------------|----------------|
| 10/09/19       | GROUND               | FOB        |   | \$             |                |
| Entered By     | Salesperson          | Ordered By | Resale Number   |                |                |
| Maria Rivera   | Maria Rivera-Laferia |            |   |                |                |
| Order Quantity | Approve Quantity     | Tax        | Item Number / Description   | Unit Price     | Extended Price |
| 8              | 8                    | Y          | MPS620U-BW<br>FS MICROPULSE Ultra Dual, 12 LED, BLUE/WHITE<br>Warehouse: LAFE Vin #:<br>PUSH BUMPER OVER RIDE AS TAKE DOWN          | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MPS1220U-RW<br>FED MICRO PULSE ULRA 12, R/W SPLIT<br>Warehouse: LAFE Vin #:<br>FOG LIGHT  | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MPS1220U-BW<br>FED MicroPulse Ultra 12, Dual-Color Surface Mount B/W<br>Warehouse: LAFE Vin #:<br>FO LIGHT AREA OVER RIDE TAKE DOWN | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MPS620U-BW<br>FS MICROPULSE Ultra Dual, 12 LED, BLUE/WHITE<br>Warehouse: LAFE Vin #:<br>MIRROR BEAM<br>OVER RIDE AS TAKE DOWN       | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MPS620U-RW<br>FS MICROPULSE Ultra Dual, 12 LED, RED/WHITE<br>Warehouse: LAFE Vin #:<br>MIRROR BEAM                                  | 0.0000         | 0.00           |

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**4809 KOGER BLVD**  
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| Entered By     |                  | Salesperson          | Ordered By   | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |  |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description  | Unit Price     | Extended Price |
| 4              | 4                | Y                    | MPSW9X-RW<br>FED MPS WIDE ANG X,RED/WHT<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                | Y                    | MPSW9X-BW<br>FED MPS WIDE ANG X,BLU/WHT<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 8              | 8                | Y                    | MPSMW9-TAH15MIR<br>FED MICROPULSE SIDE MIRROR BRACKETS FOR 2015+ Ta<br>Warehouse: LAFE Vin #:<br>**SS2 Flash RB, SS3 Flash RWBW<br>Alley-Steady White<br>Cruise Step 2** | 0.0000         | 0.00           |
| 8              | 8                | Y                    | MPS620U-RW<br>FS MICROPULSE Ultra Dual, 12 LED, RED/WHITE<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 8              | 8                | Y                    | MPS620U-BW<br>FS MICROPULSE Ultra Dual, 12 LED, BLUE/WHITE<br>Warehouse: LAFE Vin #:<br>4-RUNNING BOARD PER UNITS  | 0.0000         | 0.00           |
| 8              | 8                | Y                    | XSM2-BRW<br>FED Blue/Red/White - Blue/Red/White Dual head moUNT<br>Warehouse: LAFE Vin #:<br>REAR SIDE WINDOW  | 0.0000         | 0.00           |

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# Sales Quote

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**4809 KOGER BLVD**  
**GREENSBORO, NC 27407**

Telephone: 800-845-0405

|                        |            |
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| 10/09/19       | GROUND               | FOB        |   | \$             |                |
| Entered By     | Salesperson          | Ordered By | Resale Number   |                |                |
| Maria Rivera   | Maria Rivera-Laferia |            |   |                |                |
| Order Quantity | Approve Quantity     | Tax        | Item Number / Description   | Unit Price     | Extended Price |
| 8              | 8                    | Y          | MPS620U-BR<br>FED Micro Pulse Ultra 6 Dual Color Surface Mount<br>Warehouse: LAFE Vin #:<br>12-24 VDC<br>12 LED Lighthead<br>Blue/Red<br><br>** underside lift gate** | 0.0000         | 0.00           |
| 8              | 8                    | Y          | 416900RW<br>FEDERAL SIGNAL CORNER LED R/W- 12 LED<br>Warehouse: LAFE Vin #:<br>3 way rocker for cargo light   | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MPS1220U-BW<br>FED MicroPulse Ultra 12, Dual-Color Surface Mount B/W<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MPS1220U-RW<br>FED MICRO PULSE ULRA 12, R/W SPLIT<br>Warehouse: LAFE Vin #:<br>LICENSE PLATE  | 0.0000         | 0.00           |

|                   |             |
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**4809 KOGER BLVD**  
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|----------------|------------------|----------------------|---|----------------|----------------|
| 10/09/19       | GROUND           | FOB                  |   | \$             |                |
| Entered By     |                  | Salesperson          | Ordered By  | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |   |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description   | Unit Price     | Extended Price |
| 4              | 4                | Y                    | UJF44<br>WEC 4-OUTLET, 4 CHANNEL 60W LED FLASHER<br>Warehouse: LAFE Vin #:<br>OVER 60 FLASH PATTERNS, ALLOWING FOR<br>ALTERNATING, SIMULTANEOUS & SYNCHRONIZED<br>FLASHING LIGHTHEADS.<br>***** | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 416900BW<br>FEDERAL SIGNAL CORNER LED B/W- 12 LED<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 416900RW<br>FEDERAL SIGNAL CORNER LED R/W- 12 LED<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | reverse light<br>380400-W<br>FEDERAL PAR46 UNITY LIGHT LED<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 7126-7634<br>BOSS STRONG BOX VAULT W PULLOUT DRAWER 40x34x1.<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |

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|----------------|------------------|----------------------|--|----------------|----------------|
| 10/09/19       | GROUND           | FOB                  |  | 5              |                |
| Entered By     |                  | Salesperson          | Ordered By   | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |  |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description  | Unit Price     | Extended Price |
| 4              | 4                | Y                    | C-VS-1013-TAH-1<br>HAV 2015+ TAHOE CONSOLE W/2-12VDC OUTLETS<br>Warehouse: LAFE Vin #:<br>CONSOLE INCLUDES 2-12VDC OUTLETS AS WELL AS A PLACE FOR RELOCATING THE OEM 12 VDC OUTLET, THE FOLLOWING EQUIPMENT BRACKETS & OPTIONAL FEATURES, AND WHATEVER FILLER PLATES NECESSARY TO COMPLETE THE INSTALLATION<br>1) C-EB30-FSR-1P<br>1)C-EB40-SSP-1P message board face plate<br>1) C-EB30-XG2-1P<br>1)<br>***** | 0.0000         | 0.00           |
| 8              | 8                | Y                    | CUP2-1001<br>HAV Self-Adjusting Double Cup Holder<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                | Y                    | C-ARM-102<br>HAV ARM REST - MOUNTS TO SIDE OF CONSOLE BOX<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 8              | 8                | Y                    | C-MCB<br>HAV CONSOLE MICROPHONE CLIP BRACKET<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | C-MC<br>HAV CONSOLE MICROPHONE CLIP<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |

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# Sales Quote

**DANA SAFETY SUPPLY, INC**  
**4809 KOGER BLVD**  
**GREENSBORO, NC 27407**

Telephone: 800-845-0405

|                 |            |
|-----------------|------------|
| Sales Quote No. | 308295-A   |
| Customer No.    | LAKECOCHEV |

**Bill To**

LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

**Ship To**

LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

**Contact:**  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbeefleet@gmail.com

**Contact:**  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbeefleet@gmail.com

| Quote Date     | Ship Via         | F.O.B.               | Customer PO Number  | Payment Method |                |
|----------------|------------------|----------------------|---|----------------|----------------|
| 10/09/19       | GROUND           | FOB                  |   | S              |                |
| Entered By     |                  | Salesperson          | Ordered By  | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |   |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description   | Unit Price     | Extended Price |
| 4              | 4                | Y                    | C-LP2-PS1-USB<br>HAV 2-12V PLUGS AND 2 USB PORTS<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 35-14025<br>WESTIN DEFENDER PRISONER SEAT<br>Warehouse: LAFE Vin #:<br>Defender Prisoner Seat With Ready Bckle Seat Belt System       | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 35-10025<br>WESTIN DEFENDER REAR MESH PARTITION<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 35-15025<br>WESTIN DOOR COVER<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 35-16025<br>WESTIN DEFENDER WINDOW GUARDS<br>Warehouse: LAFE Vin #:   | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 35-12025<br>WESTIN DEFENDER FRONT PARTITION<br>Warehouse: LAFE Vin #:<br>RECESSED AND FLAT PANEL ALL POLYCARBONATE WITH CENTER WINDOW | 0.0000         | 0.00           |
| 4              | 4                | Y                    | 809-0002-00<br>STALKER PATROL K BAND 2 ANTENNA<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |

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# Sales Quote

DANA SAFETY SUPPLY, INC  
 4809 KOGER BLVD  
 GREENSBORO, NC 27407

Telephone: 800-845-0405

|                 |            |
|-----------------|------------|
| Sales Quote No. | 308295-A   |
| Customer No.    | LAKECOCHEV |

**Bill To**  
 LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

**Ship To**  
 LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

Contact:  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbeefleet@gmail.com

Contact:  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbeefleet@gmail.com

| Quote Date     | Ship Via             | F.O.B.     | Customer PO Number   | Payment Method |                |
|----------------|----------------------|------------|--|----------------|----------------|
| 10/09/19       | GROUND               | FOB        |  | S              |                |
| Entered By     | Salesperson          | Ordered By | Resale Number  |                |                |
| Maria Rivera   | Maria Rivera-Laferia |            |  |                |                |
| Order Quantity | Approve Quantity     | Tax        | Item Number / Description  | Unit Price     | Extended Price |
| 4              | 4                    | Y          | 200-1089-00<br>STALKER 2015-2017 Tahoe Counting Unit Mount<br>Warehouse: LAFE Vin #:                                       | 0.0000         | 0.00           |
| 4              | 4                    | Y          | 200-1088-01<br>Stalker Tahoe Antenna Mount, K-Band BRACKET<br>Warehouse: LAFE Vin #:                                       | 0.0000         | 0.00           |
| 4              | 4                    | Y          | 200-1090-01<br>STALKER 2015-2020 TAHOE REAR ANTENNA MOUNT K-BA<br>Warehouse: LAFE Vin #:                                   | 0.0000         | 0.00           |
| 4              | 4                    | Y          | MISC<br>KINGSVILLE PATROL UNIT 2020 TAHOE<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                    | Y          | INSTALL-GRAPHIC<br>INSTALLATION OF GRAPHICS<br>Warehouse: LAFE Vin #:  | 0.0000         | 0.00           |
| 4              | 4                    | Y          | INSTALL KIT<br>MISC INSTALLATION SUPPLIES I.E.<br>Warehouse: LAFE Vin #:<br>LOOM, WIRE, HARDWARE, CONNECTORS, ETC<br>***** | 0.0000         | 0.00           |
| 4              | 4                    | N          | INSTALL<br>DSS INSTALLATION OF EQUIPMENT<br>Warehouse: LAFE Vin #:<br>RADIO PROVIDED BY CUSTOMER HIDE THE ANTENNA          | 2,400.0000     | 9,600.00       |

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# Sales Quote

DANA SAFETY SUPPLY, INC  
 4809 KOGER BLVD  
 GREENSBORO, NC 27407

Telephone: 800-845-0405

|                 |            |
|-----------------|------------|
| Sales Quote No. | 308295-A   |
| Customer No.    | LAKECOCHEV |

**Bill To**

LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

**Ship To**

LAKE COUNTY CHEVROLET  
 2152 N WHEELER ST  
 JASPER, TX 785951

Contact:  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbee@fleet@gmail.com

Contact:  
 Telephone: 254-541-9061  
 E-mail: mwiley.silsbee@fleet@gmail.com

| Quote Date     | Ship Via         | F.O.B.               | Customer PO Number   | Payment Method |                |
|----------------|------------------|----------------------|--|----------------|----------------|
| 10/09/19       | GROUND           | FOB                  |  | S              |                |
| Entered By     |                  | Salesperson          | Ordered By   | Resale Number  |                |
| Maria Rivera   |                  | Maria Rivera-Laferia |  |                |                |
| Order Quantity | Approve Quantity | Tax                  | Item Number / Description  | Unit Price     | Extended Price |
|                | **BUY BOARD 524  | 17**                 | Approved By: _____<br><input type="checkbox"/> Approve All Items & Quantities<br><b>Quote Good for 30 Days</b> |                |                |

|            |             |
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| Print Time | 04:03:22 PM |
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|                    |                  |
|--------------------|------------------|
| Subtotal           | 64,038.00        |
| Freight            | 1,200.40         |
| <b>Order Total</b> | <b>65,238.40</b> |

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**RESOLUTION #2020-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GOVERNMENTAL FINANCE CONTRACT (No.8950) BETWEEN GOVERNMENT CAPITAL CORPORATION AND THE CITY OF KINGSVILLE FOR POLICE VEHICLES; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville, Texas has need for five outfitted Police vehicles and staff has located some vehicles through the GoodBuy purchasing cooperative program in compliance with Texas procurement law;

**WHEREAS**, on December 9, 2019 the City Commission of the City of Kingsville, Texas ("Lessee") authorized staff to look for vehicles and work with Government Capital Corporation ("GCC" or "Lessor") on possible financing for the vehicles via Resolution #2019-107;

**WHEREAS**, on January 13, 2020 the City Commission authorized the purchase of five outfitted Police vehicles to be paid for through a governmental finance contract, or capital lease, which staff has negotiated with GCC;

**WHEREAS**, the City of Kingsville, Texas ("Issuer") desires to enter into a certain Finance Contract No.8950, by and between the Issuer and GCC dated December 9, 2019 for the purpose of financing "Vehicles" (also known as "the Property");

**WHEREAS**, the City desires to designate this Finance Contract as a "qualified tax exempt obligation" of the City for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the City has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the calendar year;

**WHEREAS**, the City expects and anticipates adequate funds to be available for all future lease/purchase payments after the current fiscal year for the following reasons: the City is fiscally stable, has not defaulted on any prior debt obligations, and desires to keep the road equipment to be acquired through this Finance Contract for its capital improvement projects and sanitation collection services.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**THAT**, the City Manager is hereby authorized to enter in the Finance Contract No. 8950 with Government Capital Corporation for a period of 7 years, with annual payments not to exceed \$49,280.76.

**THAT**, an official of the City be, and hereby is, authorized, empowered and directed to sign on its behalf the Finance Contract No. 8950 and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Finance Contract and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

**THAT**, pursuant to Section 265(b) (3) of the Internal Revenue Code of 1986, as amended, this Finance Contract be and hereby is designated as a "qualified tax-exempt obligation" includable within the TEN MILLION DOLLARS (\$10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Finance Contract is entered into.

**THAT**, the City shall not designate more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and the City, together with its subordinate entities, does not reasonably expect to issue more than TEN MILLION DOLLARS (\$10,000,000) of tax-exempt obligations during the current calendar year.

**THAT**, the equipment as described in Exhibit "A" of such agreement is essential to the function of the undersigned or to the service we provide to our citizens. Further, we have an immediate need for, and expect to make immediate use of, substantially all of the equipment, which need is not temporary or expected to diminish in the foreseeable future. The equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, the equipment was selected by us to be used as follows: Five Police Vehicles and Equipment.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**THAT** this Resolution shall be and become effective on and after adoption.

**THAT** this resolution was considered, passed, and approved at a regular meeting of the City Commission of the City of Kingsville, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 13th day of January, 2020.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# PUBLIC PROPERTY FINANCE ACT CONTRACT

THIS Public Property Finance Act Contract **No.8950** (hereafter referred to as the "Finance Contract") is dated as of **December 9, 2019**, by and between **Government Capital Corporation**, a Texas corporation (herein referred to as "GCC"), and the **City of Kingsville**, a political sub-division or agency of the State of Texas (hereinafter referred to as the "Issuer").

WITNESSETH: In furtherance of the providing by GCC of financing to the Issuer in connection with the Issuer's acquisition from various vendors that is more fully described on EXHIBIT A attached hereto (the "Property"), and in consideration of the mutual covenants and conditions hereinafter set forth, pursuant to the provisions of the Public Property Finance Act, Chapter 271, Subchapter A, Texas Local Government Code, as amended (the "Act"), the parties agree as follows:

**1. Term and Payments.** The Issuer hereby covenants and agrees to pay to the order of GCC and GCC's successors and assigns those principal and interest installment amounts in those sums set forth on EXHIBIT B attached hereto (the "Payments") on or before those dates per installment that are more fully set forth on EXHIBIT B (the "Payment Dates"). It is acknowledged and understood that GCC may assign its rights hereunder to a third party and that notice of said assignment shall be provided to the Issuer and that the Issuer, thereafter, shall look to and consider said assignee as the party to whom all of the Issuer's duties hereunder are owed. The obligation of the Issuer to make the Payments shall not be subject to set-off, counterclaim, or recoupment to the extent permitted by law. The interest is calculated on the basis of a 30/360-day year on the unpaid principal amounts from the Schedule Date of the EXHIBIT B.

**2. Security, Levy of Taxes, Budgeting.**

(a) During the term of this Finance Contract, the Issuer covenants that prior to adopting a budget for any ensuing fiscal year it shall place in its proposed budget for such ensuing fiscal year an amount necessary to pay the Finance Contract Payments for such ensuing fiscal year, and that the final budget for each fiscal year shall set aside and appropriate out of Ad Valorem Taxes and other revenues and funds lawfully available therefore an amount sufficient to pay the Finance Contract Payments. The Issuer hereby agrees to assess and collect, a continuing direct annual Ad Valorem Tax on all taxable property within the boundaries of the Issuer, within the limitations prescribed by law, at a rate from year to year sufficient, together with such other revenues and funds lawfully available to the Issuer for the payment of the Payments, to provide funds each year to pay the Payments, full allowance being made for delinquencies and costs of collection. Such taxes and such revenues and funds in an amount sufficient to make the Payments are pledged to GCC and GCC's successors and assigns for such purpose as the same shall become due and payable under this Finance Contract.

(b) The Issuer waives all rights of set-off, recoupment, counterclaim and abatement against GCC and GCC's successors and assigns with respect to the amounts due under this Finance Contract, and the Issuer's obligation to pay amounts due under this Finance Contract is absolute and unconditional and not subject to set-off, recoupment, counterclaim or abatement for any reason whatsoever.

**3. Deposit into the Payment Fund.**

(a) Upon this Finance Contract taking effect the Issuer shall establish a Payment Fund, which shall be maintained by the Issuer as long as any Payments are unpaid. The Issuer hereby pledges the Payment Fund for the exclusive purpose of securing the Payments and shall apply the funds therein to the payment of Payments as such payments come due.

(b) Each year in which Payments come due, the Issuer shall, not later than the day preceding any such due date, deposit into the Payment Fund, from the Issuer's Ad Valorem taxes or other lawfully available funds (within the limits prescribed by law) an amount sufficient to make such payment. To the extent permitted by law, the Issuer hereby pledges its Ad Valorem tax as security for this obligation. To the extent required by the Texas Constitution, the Issuer agrees during each year of the term of this Finance Contract to assess and collect annually a sufficient sum to pay the greater of (1) interest on the debt created by this Finance Contract and a sinking fund of at least two percent of the principal amount of such debt, or (2) the payments required by Exhibit B attached hereto.

(c) The Payment Fund shall be depleted at least once a year except for a carryover amount not to exceed one twelfth (1/12) of the amount of the Payments expected to come due in the following year.

**4. Taxes.** The Issuer agrees to directly pay all taxes, insurance and other costs of every nature associated with its ownership of the Property.

**5. The Issuer's Covenants and Representations.** The Issuer covenants and represents as follows:

(a) The Issuer will provide an opinion of its counsel to the effect that, it has full power and authority to enter into this Finance Contract which has been duly authorized, executed, and delivered by the Issuer and is a valid and binding obligation enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Finance Contract have been, or will be, complied with in a timely manner;

(b) All Payments hereunder for the current fiscal period have been duly authorized and will be paid when due;

(c) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization of performance of, or expenditure of funds pursuant to this Finance Contract;

(d) The information supplied and statements made by the Issuer in any financial statement or current budget prior to or contemporaneously with this Finance Contract are true and correct;

(e) The Issuer has complied or will comply with all bidding/proposal laws applicable to this transaction and the purchase of the Property.

(f) No contract, rental agreement, lease-purchase agreement, payment agreement or contract for purchase under the Act to which the Issuer has been a party at any time during the past ten (10) years has been terminated by the Issuer as a result of insufficient funds being appropriated in any Fiscal Year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which the Issuer has issued during the past ten (10) years.

(g) The Issuer will pay the Payments due by check, wire transfer, or ACH only.



**6. Use and Licenses.** The Issuer shall pay and discharge all operating and other expenses of every nature associated with its use of the Property. The Issuer shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Property.

**7. Maintenance.** The Issuer agrees to be solely responsible for all maintenance and operating costs of every nature associated with its ownership of the Property and the Issuer acknowledges that GCC or GCC's successors or assigns shall have no responsibility for the payment of any such costs.

**8. Damage to or Destruction of Property.** The Issuer shall bear the entire risk of loss, damage, theft, or destruction of the Property from any and every cause whatsoever, and no loss, damage, destruction, or other event shall release the Issuer from the obligation to pay the full amount of the payments or from any other obligation under this Finance Contract.

**9. No Warranty.** EXCEPT FOR REPRESENTATIONS, WARRANTIES, AND SERVICE AGREEMENTS RELATING TO THE PROPERTY MADE OR ENTERED INTO BY THE MANUFACTURERS OR SUPPLIERS OF THE PROPERTY, IF ANY, ALL OF WHICH ARE HEREBY ASSIGNED TO THE ISSUER, GCC HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE PROPERTY DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO SPECIFICATION OR PURCHASE ORDER. All such risks shall be borne by the Issuer without in any way excusing it from its obligations under this Finance Contract, and GCC shall not be liable for any damages on account of such risks. All claims or actions on any warranty so assigned shall be made or prosecuted by the Issuer, at its sole expense, upon prior written notice to GCC. GCC or its assigns may, but shall have no obligation whatsoever to, participate in a claim on any warranty. Any recovery under such a warranty shall be made payable jointly to both parties.

**10. Evidence of Indebtedness and Security Agreement.**

**(a)** An executed copy of this Finance Contract shall evidence the indebtedness of the Issuer as provided herein and shall constitute a security agreement pursuant to applicable law, with GCC, its successors or assigns as the secured party. The grants, lien, pledge and security interest of GCC, its successors or assigns created herein shall become effective immediately upon and from the Schedule Date of the EXHIBIT B, and the same shall be continuously effective for so long as any Finance Contract Payments are outstanding.

**(b)** A fully executed copy of this Finance Contract and the proceedings authorizing same shall be kept at all times and shall be filed and recorded as a security agreement among the permanent records of the Issuer. Such records shall be open for inspection to any member of the general public and to any individual, firm, corporation, governmental entity or other person proposing to do or doing business with, or having or asserting claims against the Issuer, at all times during regular business hours.

**(c)** If, in the opinion of counsel to the Issuer or to GCC, its successors or assigns, applicable law ever requires filings additional to the filing pursuant to subsection (b) of this section in order to preserve and protect the priority of the grants, assignments, lien, pledge and security interest of GCC, its successors or assigns created herein as to all Payments, then the Issuer shall diligently and regularly make such filings to the extent required by law to accomplish such result.

**11. Default and Remedies.**

**(a)** Each of the following occurrences or events for the purpose of this Finance Contract is hereby declared to be an Event of Default:

**(1)** the failure to make payment of the Payment when the same becomes due and payable; or

**(2)** default in the performance or observance of any other covenant agreement or obligation of the Issuer, which default materially, adversely affects the rights of GCC or its successors or assigns, including, but not limited to, its prospect or ability to be repaid in accordance with this Finance Contract, and the continuation thereof for a period of 20 days after notice of such default is given by GCC or any successors or assigns of GCC to the Issuer.

**(b) Remedies for Default.**

**(1)** Upon the happening of any Event of Default, then and in every case GCC or its successors or assigns, or an authorized representative thereof, including, but not limited to, an attorney or trustee therefore, may proceed against the Issuer for the purpose of protecting and enforcing the rights of GCC or its successors or assigns under this Finance Contract, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of GCC or its successors or assigns or any combination of such remedies; provided that none of such parties shall have any right to declare the balance of the Finance Contract Payments to be immediately due and payable as a remedy because of the occurrence of an Event of Default.

**(2)** The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy, and no delay or omission to exercise any right or power occurring upon any Event of Default shall impair any such right or power or be construed to be a waiver thereof and all such rights and powers may be exercised as often as may be deemed expedient.

**(c) Remedies Not Exclusive.**

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

**12. Assignment.** Without GCC's prior written consent, the Issuer will not either **(a)** assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Finance Contract or the Property or any interest in this Finance Contract or the Property; or **(b)** sublet or lend the Property or permit it to be used by anyone other than the Issuer or the Issuer's employees and other authorized users. GCC may assign its rights, title and interest in and to this Finance Contract, and any other documents executed with respect to this Finance Contract and/or grant or assign a security interest in this Finance Contract, in whole or in part. Such successors and assigns of GCC shall have the right to further grant or assign a security interest in this Finance Contract, as well as the rights to Payments hereunder, in whole or in part, to any third party. No assignment or reassignment of GCC's rights, title or interest in this Finance Contract shall be effective with regard to the Issuer unless and until the Issuer shall have received a copy of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee. The Issuer shall maintain written records of any assignments of the Finance Contract.

**13. Personal Property.** The Property is and shall at all times be and remain personal property, and will not be considered a fixture to any real property.

**14. GCC's Right to Perform for The Issuer.** If the Issuer fails to make any payment or perform or comply with any of its covenants or obligations hereunder, GCC or GCC's successors or assigns may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of the Issuer, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by GCC or GCC's successors or assigns in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate under the State of Texas law, shall be payable by the Issuer upon demand.

**15. Interest on Default.** If the Issuer fails to pay any Payment specified herein within twenty (20) days after the due date thereof, the Issuer shall pay to GCC or any successor or assigns of GCC, interest on such delinquent payment at the highest rate allowed by Texas law.

**16. Notices.** Any notices to be given or to be served upon any party hereto in connection with this Finance Contract must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after mailing. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Finance Contract or at such other address as either party may hereafter designate.

**17. Prepayment.**

(a) The Issuer shall have the right, at its option, to prepay the Finance Act Contract in whole, on any payment date which has an amount shown in the "Early Redemption Value" column of Exhibit B attached hereto. "N/A" shall mean not prepayable. The Issuer shall not have the right to prepay the Finance Contract in part at any time.

(b) As condition precedent to the Issuer's right to make, and GCC's obligation to accept, any such prepayment, GCC shall have actually received notice at least thirty (30) days in advance of the Issuer's intent to exercise its option to prepay.

**18. Continuing Disclosure.** Specifically and without limitation, the Issuer agrees to provide audited financial statements, prepared by a certified public accountant not later than six (6) months after and as of the end of each fiscal year. Periodic financial statements shall include a combined balance sheet as of the end of each such period, and a combined statement of revenues, expenditures and changes in fund balances, from the beginning of the then fiscal year to the end of such period. These reports must be certified as correct by one of the Issuer's authorized agents. If the Issuer has subsidiaries, the financial statements required will be provided on a consolidated and consolidation basis.

**19. Tax Exemption.**

(a) The Issuer certifies that it does not reasonably anticipate more than \$10,000,000 of "tax-exempt obligations", including this Finance Contract will be issued by it and any subordinate entities during the 2019 calendar year. Further, the Issuer designates this Finance Contract as "qualified tax exempt obligations" under Section 265 (b) 3 of the Internal Revenue Code of 1986, as amended (the "Code") eligible for the exception contained in Section 265 (b) 3 (D) of the Code allowing for an exception to the general rule of the Code which provides for a total disallowance of a deduction for interest expense allocable to the carrying of tax exempt obligations.

(b) The Issuer hereby represents and covenants that the proceeds of this Finance Contract are needed at this time to provide funds for the Issuer's purchase of the property for which this Finance Contract was executed and delivered, as specified in this Finance Contract; that (i) final disbursement of the proceeds of this Finance Contract will occur within three years from the Schedule Date of the EXHIBIT B, (ii) substantial binding obligations to expend at least five (5) percent of the net proceeds will be incurred within six months after the Schedule Date of the EXHIBIT B and (iii) the acquisition of such property will proceed with due diligence to completion; and that, except for the Escrow Agreement, if applicable, and the Payment Fund, no other funds or accounts have been or will be established or pledged to the payment of this Finance Contract.

(c) The Issuer will not directly or indirectly take any action or omit to take any action, which action or omission would cause the Finance Contract to constitute a "private activity bond" within the meaning of Section 141(a) of the Code.

(d) The Issuer will not take any action or fail to take any action with respect to the investment of the proceeds of this Finance Contract or any other funds of the Issuer, including amounts received from the investment of any of the foregoing, that would cause this Finance Contract to be an "arbitrage bond" within the meaning of such section 148 of the Code.

(e) There are no other obligations of the Issuer which are sold at substantially the same time as the Finance Contract, sold pursuant to the same plan of financing with the Finance Contract and are reasonably expected to be paid from substantially the same source of funds as the Finance Contract.

(f) The Issuer will not take any action, or as the case may be, knowingly omit to take any action within its control that, if taken or omitted, as the case may be, would cause the Finance Contract to be treated as "federally guaranteed" obligations for purposes of Section 149(b) of the Code.

(g) The Issuer will take all necessary steps to comply with the requirement that certain amounts earned by the Issuer on the investment of the "gross proceeds" of the Finance Contract (within the meaning of Section 148(f)(6)(B) of the Code), if any, be rebated to the federal government. Specifically, the Issuer will (i) maintain records regarding the investment of the gross proceeds of the Finance Contract as may be required to calculate and substantiate the amount earned on the investment of the gross proceeds of the Finance Contract and retain such records for at least six years after the day on which the last outstanding Finance Contract is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, including any specified method of accounting required by applicable regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable regulations, the amount earned from the investment of the gross proceeds of the Finance Contract and (iv) timely pay all amounts required to be rebated to the federal government. In addition, the Issuer will correct any errors within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalty, if any, as may be necessary or appropriate to assure that interest on the Finance Contract is not includable in the gross income for federal income tax purposes.

(h) The Issuer will timely file with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Finance Contract on such form and in such place as the Secretary may prescribe. Notwithstanding any other provision of this Finance Contract, the Issuer's obligation under the covenants and provisions of this Section 19 shall survive the defeasance and discharge of this Finance Contract.

**20. Miscellaneous.**

(a) Time is of the essence. No covenant or obligations hereunder to be performed by the Issuer are waived, except by the written consent of GCC or its successors or assigns. GCC's or its successors or assigns' rights hereunder are cumulative and not alternative.

(b) This Finance Contract shall be construed in accordance with, and governed by the state of Texas laws.

(c) This Finance Contract constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both GCC and the Issuer.

(d) Any term or provision of this Finance Contract found to be prohibited by law or unenforceable shall not affect the legality the remainder of this Finance Contract.

(e) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever appropriate.

(f) The captions set forth herein are for convenience of reference only, and shall not define or limit any of the terms or provisions hereof.

(g) Issuer agrees to equitably adjust the payments payable under this Finance Contract if there is a determination by the IRS that the interest payable pursuant to this Finance Contract (as incorporated within the schedule of payments) is not excludable from income in accordance with the Internal Revenue Code of 1986, as amended, such as to make GCC and its assigns whole.

(h) Except as otherwise provided, this Finance Contract shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Finance Contract.

(i) In accordance with Texas Government Code sections 2270.001-2270.002, GCC verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.

(j) THIS CONTRACT IS EVIDENCE OF A PRIVATELY PLACED BANK LOAN, IS NOT IN REGISTERED FORM, AND MAY NOT BE TRANSFERRED TO BEARER. TRANSFERS OF THIS CONTRACT ARE NOT REGISTERED ON BOOKS MAINTAINED FOR THAT PURPOSE BY THE ISSUER.

IN WITNESS WHEREOF, the parties have executed this Finance Contract as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2020.

Government Capital Corporation

\_\_\_\_\_  
Authorized Signature  
345 Miron Dr.  
Southlake, TX 76092

Witness Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Print Title \_\_\_\_\_

**The Issuer:** City of Kingsville

\_\_\_\_\_  
Mark McLaughlin, City Manager  
400 W King Ave.  
Kingsville, TX 78363

Witness Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Print Title \_\_\_\_\_

## EXHIBIT A

Public Property Finance Act Contract **No.8950** (THE "FINANCE CONTRACT")

By And Between

Government Capital Corporation and **the Issuer**, City of Kingsville

Dated as of December 9, 2019

### QTY DESCRIPTION

---

Personal Property

Property Cost: \$301,667.02

Payback Period: Seven (7) Annual Payments

#### Police Vehicles and Equipment

**One (1) 2020 Police Pursuit Unit 4x2 includes:**  
5.3L V8, 6-Spd Automatic, Cloth Front Buckets, Vinyl 2nd Tow, Rubber Floor, AM/FM/Bluetooth, Power Windows and Locks, Cruise Control, and Fleet Safety Package 308283-D.

**Four (4) 2020 Police Pursuit Unit 4x2 includes:**  
5.3L V8, 6-Spd Automatic, Cloth Front Buckets, Vinyl 2nd Tow, Rubber Floor, AM/FM/Bluetooth, Power Windows and Locks, Cruise Control, and Fleet Safety Package 308295-A.

#### Radios

One (1) Mobile, XG-100M, 136-74, 762-870 MHz  
One (1) Antenna, Flex, Multiband, 136-870 MHz, 0 dB  
One (1) Antenna, Base, Standard Roof Mount Low Loss  
One (1) Feature Package, P25 Trunking  
One (1) Control Unit, CH-721, Scan, Remote Mount  
One (1) Accessories Kit, Unity with CH-721 Remote Mount  
One (1) Microphone Standard  
Two (2) Noise Suppressors, 1 AMP  
Five (5) Mobile, M7300, 764-870 MHz, Half Duplex, Unencrypted  
Five (5) Feature Package, P25 Trunking  
Five (5) Feature Package, Edacs Trunking  
Five (5) Control Unit, CH-721, Scan, Remote Mount  
Five (5) Accessories, XG-75M/M7300 Remote Mount  
Five (5) Microphone, Standard, CH-721 Control Unit  
Five (5) Antenna, Base, Standard Roof Mounting  
Five (5) Antenna, Element, 700/800 3 dB  
Five (5) Noise Suppressors, 15 AMP

#### Cameras

Five (5) Focus H1 In-Car System Package 3 /wo Body Camera or Wireless Microphone includes:  
4.3" touchscreen monitor, GPS, Crash Sensor, Smart Power Module (SPM), 16 GB internal Solid State OS drive, 128 GB internal Solid State Fail-Safe drive, 64 GB removable Thumb Drive, Internal 802.11 A/G/N/C wireless card, Backseat wide angle IR camera with built in covert microphone, and Front facing HD low profile color camera.

Five (5) Focus X1 Vehicle Integration Dock includes:  
Automatic vehicle trigger activation and temporary in-field charging, playback, tagging, and WiFi upload through COBAN In-Car Video System

Five (5) Coban Command Center Solution

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PROPERTY LOCATION:  
400 W King Ave.  
Kingsville, TX 78363

## EXHIBIT B

### >> SCHEDULE OF PAYMENTS & EARLY REDEMPTION VALUE <<

PUBLIC PROPERTY FINANCE ACT CONTRACT **NO.8950** (THE "FINANCE CONTRACT")

BY AND BETWEEN

Government Capital Corporation and the **Issuer**, City of Kingsville

Schedule Dated as of December 31, 2019

| PMT NO.      | PMT DATE MO. DAY YR | TOTAL PAYMENT | INTEREST PAID | PRINCIPAL PAID | EARLY REDEMPTION VALUE after pmt on this line |
|--------------|---------------------|---------------|---------------|----------------|---|
| 1            | 12/31/2020          | \$49,280.76   | \$10,467.85   | \$38,812.91    | N/A   |
| 2            | 12/31/2021          | \$49,280.76   | \$9,121.04    | \$40,159.72    | N/A   |
| 3            | 12/31/2022          | \$49,280.76   | \$7,727.50    | \$41,553.26    | N/A   |
| 4            | 12/31/2023          | \$49,280.76   | \$6,285.60    | \$42,995.16    | \$146,805.38                                  |
| 5            | 12/31/2024          | \$49,280.76   | \$4,793.67    | \$44,487.09    | \$99,026.13                                   |
| 6            | 12/31/2025          | \$49,280.76   | \$3,249.96    | \$46,030.80    | \$50,100.18                                   |
| 7            | 12/31/2026          | \$49,280.76   | \$1,652.68    | \$47,628.08    | \$0.00  |
| Grand Totals |                     | \$344,965.32  | \$43,298.30   | \$301,667.02   |   |

Interest Rate: 3.47%

**INCUMBENCY CERTIFICATE**

Public Property Finance Act Contract **No.8950** (THE "FINANCE CONTRACT")

By And Between

Government Capital Corporation and **the Issuer**, City of Kingsville

Dated as of December 9, 2019

I, Mary Valenzuela, do hereby certify that I am the duly elected or appointed and acting City Secretary, of City of Kingsville, Issuer, a political subdivision or agency of the State of Texas, duly organized and existing under the laws of the State of Texas, that I or my designee have custody of the records of such entity, and that, as of the date hereof, the individual(s) named below are the duly elected or appointed officer(s) of such entity holding the office(s) set forth opposite their respective name(s). I further certify that (i) the signature(s) set opposite their respective name(s) and title(s) are their true and authentic signature(s), and (ii) such officers have the authority on behalf of such entity to enter into that certain Public Property Finance Act Contract No.8950, between City of Kingsville (the "Issuer") and Government Capital Corporation ("GCC").

Name

Title

Signature

Mark McLaughlin

City Manager

\_\_\_\_\_

IN WITNESS WHEREOF, I have duly executed this certificate hereto this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Mary Valenzuela, City Secretary

P.O. BOX 1458 - KINGSVILLE, TEXAS 78364

Government Capital Corporation  
345 Miron Dr  
Southlake, TX 76092

RE: Public Property Finance Act Contract No.8950

I have examined the Public Property Finance Act Contract No.8950 (the "Finance Contract") between the City of Kingsville (the "Issuer") and Government Capital Corporation ("GCC"). The Finance Contract provides financing for the purchase by the City of Kingsville of certain Property as identified in the Finance Contract and provides that the Issuer shall finance the Property by making Payments as specified in the Public Property Finance Act Contract No.8950.

I have also examined other certificates and documents as I have deemed necessary and appropriate under the circumstances.

Based upon the foregoing examination, I am of the opinion that:

1. The Issuer is a political subdivision or agency of the State of Texas with the requisite power and authority to incur obligations, the interest on which is exempt from taxation by virtue of Section 103(a) of the Internal Revenue Code of 1986, as amended;
2. The execution, delivery and performance by the Issuer of the Finance Contract have been duly authorized by all necessary action on the part of the Issuer; and
3. The Finance Contract constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms.

The opinion expressed above is solely for the benefit of the Issuer, GCC and/or its subsequent successors or assigns.

Sincerely,

Attorney at Law

## RESOLUTION

### A RESOLUTION REGARDING A CONTRACT FOR THE PURPOSE OF FINANCING **"POLICE VEHICLES AND EQUIPMENT"**.

WHEREAS, City of Kingsville (the "Issuer") desires to enter into that certain Finance Contract No.8950, by and between the Issuer and Government Capital Corporation ("GCC") for the purpose of financing "Police Vehicles and Equipment". The Issuer desires to designate this Finance Contract as a "qualified tax exempt obligation" of the Issuer for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, BE IT RESOLVED BY CITY OF KINGSVILLE:

Section 1. That the Issuer will enter into a Finance Contract with GCC for the purpose of financing "Police Vehicles and Equipment".

Section 2. That the Finance Contract dated as of December 9, 2019, by and between the City of Kingsville and GCC is designated by the Issuer as a "qualified tax exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

Section 3. That the Issuer appoints the City Manager or their designee, as the authorized signer of the Finance Contract Number 8950 dated as of December 9, 2019, by and between the City of Kingsville and GCC as well as any other ancillary exhibit, certificate, or documentation needed for the Contract.

Section 4. That should the need arise, if applicable, the City will use loan proceeds for reimbursement of expenditures related to the Property, within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

This Resolution has been PASSED upon Motion made by Board Member \_\_\_\_\_, seconded by Board Member \_\_\_\_\_ by a vote of \_\_\_\_\_ to \_\_\_\_\_ and is effective this \_\_\_\_\_, 2019.

**Issuer:** City of Kingsville

Witness Signature

\_\_\_\_\_  
Sam Fugate, Mayor

\_\_\_\_\_  
Mary Valenzuela, City Secretary

## **WIRE TRANSFER FORM**

\*\*\* FINANCIAL INSTITUTION INFORMATION \*\*\*

Bank's Name: \_\_\_\_\_

Bank's Address: \_\_\_\_\_

Bank's Phone#: \_\_\_\_\_

Bank's Fed Routing#: \_\_\_\_\_

(Please confirm with bank since it may be different from routing number on deposit slip)

Bank Account Name: \_\_\_\_\_

Bank Account #: \_\_\_\_\_

Ref (if needed): \_\_\_\_\_

\_\_\_\_\_

**Please note that while there will not be a charge for our outgoing wire, your Bank may charge a fee for the incoming wire**

I hereby authorize Government Capital Corporation to transfer any monies due via wire transfer directly to our bank.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

|  |  |   |
|--|--|---|
| Print or type.<br>See Specific Instructions on page 3. | <p><b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p>  |   |
|  | <p><b>2</b> Business name/disregarded entity name, if different from above</p>   |   |
|  | <p><b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p> <input type="checkbox"/> Individual/sole proprietor or single-member LLC               <input type="checkbox"/> C Corporation               <input type="checkbox"/> S Corporation               <input type="checkbox"/> Partnership               <input type="checkbox"/> Trust/estate<br/> <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____<br/> <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.<br/> <input type="checkbox"/> Other (see instructions) ▶ _____         </p> | <p><b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p> |
|  | <p><b>5</b> Address (number, street, and apt. or suite no.) See instructions.</p>  | <p>Requester's name and address (optional)</p>  |
|  | <p><b>6</b> City, state, and ZIP code</p>  |   |
|  | <p><b>7</b> List account number(s) here (optional)</p>   |   |

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

|  |   |   |   |   |  |
|--|---|---|---|---|--|
| <b>Social security number</b>  |   |   |   |   |  |
| <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 40%; border: 1px solid black; height: 20px;"></td> </tr> </table> |   | - |   | - |  |
|  | - |   | - |   |  |
| <b>or</b>  |   |   |   |   |  |
| <b>Employer identification number</b>  |   |   |   |   |  |
| <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 70%; border: 1px solid black; height: 20px;"></td> </tr> </table>  |   | - |   |   |  |
|  | - |   |   |   |  |

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

|                  |   |                     |
|------------------|---|---------------------|
| <b>Sign Here</b> | <p>Signature of U.S. person ▶ _____</p> | <p>Date ▶ _____</p> |
|------------------|---|---------------------|

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

**Information Return for Tax-Exempt Governmental Bonds**

(Rev. September 2018)

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0720

Department of the Treasury  
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.

Go to www.irs.gov/F8038G for instructions and the latest information.

**Part I Reporting Authority** If Amended Return, check here

|   |            |   |  |
|---|------------|---|--|
| 1 Issuer's name<br><b>City of Kingsville</b>  |            | 2 Issuer's employer identification number (EIN)<br><b>74-6001513</b>                  |  |
| 3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)<br><b>Charlie Sosa, Purchasing Manager</b>             |            | 3b Telephone number of other person shown on 3a<br><b>361-595-8025</b>                |  |
| 4 Number and street (or P.O. box if mail is not delivered to street address)<br><b>PO Box 1458</b>  | Room/suite | 5 Report number (For IRS Use Only)<br><b>3</b>  |  |
| 6 City, town, or post office, state, and ZIP code<br><b>Kingsville, TX 78364</b>  |            | 7 Date of issue<br><b>January 13, 2020</b>  |  |
| 8 Name of issue<br><b>Public Property Finance Act Contract No.8950</b>  |            | 9 CUSIP number<br><b>None</b>   |  |
| 10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)<br><b>Mark McLaughlin, City Manager</b> |            | 10b Telephone number of officer or other employee shown on 10a<br><b>361-595-8025</b> |  |

**Part II Type of Issue (enter the issue price).** See the instructions and attach schedule.

|  |    |           |    |
|--|----|-----------|----|
| 11 Education   | 11 |           |    |
| 12 Health and hospital   | 12 |           |    |
| 13 Transportation  | 13 |           |    |
| 14 Public safety   | 14 | \$301,667 | 02 |
| 15 Environment (including sewage bonds)  | 15 |           |    |
| 16 Housing   | 16 |           |    |
| 17 Utilities   | 17 |           |    |
| 18 Other. Describe   | 18 |           |    |
| 19a If bonds are TANs or RANs, check only box 19a <input type="checkbox"/>                     |    |           |    |
| b If bonds are BANs, check only box 19b <input type="checkbox"/>                               |    |           |    |
| 20 If bonds are in the form of a lease or installment sale, check box <input type="checkbox"/> |    |           |    |

**Part III Description of Bonds.** Complete for the entire issue for which this form is being filed.

|    | (a) Final maturity date | (b) Issue price | (c) Stated redemption price at maturity | (d) Weighted average maturity | (e) Yield |
|----|-------------------------|-----------------|---|-------------------------------|-----------|
| 21 | 12/31/2026              | \$ 301,667.02   | \$ 301,667.02                           | 4.136 years                   | 3.47 %    |

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

|    |  |    |           |    |
|----|--|----|-----------|----|
| 22 | Proceeds used for accrued interest   | 22 | N/A       |    |
| 23 | Issue price of entire issue (enter amount from line 21, column (b))                      | 23 | \$301,667 | 02 |
| 24 | Proceeds used for bond issuance costs (including underwriters' discount)                 | 24 | N/A       |    |
| 25 | Proceeds used for credit enhancement   | 25 | N/A       |    |
| 26 | Proceeds allocated to reasonably required reserve or replacement fund                    | 26 | N/A       |    |
| 27 | Proceeds used to refund prior tax-exempt bonds. Complete Part V                          | 27 | N/A       |    |
| 28 | Proceeds used to refund prior taxable bonds. Complete Part V                             | 28 | N/A       |    |
| 29 | Total (add lines 24 through 28)  | 29 | N/A       |    |
| 30 | Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) | 30 | \$301,667 | 02 |

**Part V Description of Refunded Bonds.** Complete this part only for refunding bonds.

|    |  |     |       |
|----|--|-----|-------|
| 31 | Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded   | N/A | years |
| 32 | Enter the remaining weighted average maturity of the taxable bonds to be refunded      | N/A | years |
| 33 | Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) | N/A |       |
| 34 | Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)                          |     |       |

**Part VI Miscellaneous**

|            |  |            |                                     |
|------------|--|------------|-------------------------------------|
| <b>35</b>  | Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .  | <b>35</b>  |                                     |
| <b>36a</b> | Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions . . . . .  | <b>36a</b> |                                     |
| <b>b</b>   | Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____  |            |                                     |
| <b>c</b>   | Enter the name of the GIC provider ▶ _____   |            |                                     |
| <b>37</b>  | Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .  | <b>37</b>  |                                     |
| <b>38a</b> | If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ <input type="checkbox"/> and enter the following information:  |            |                                     |
| <b>b</b>   | Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____  |            |                                     |
| <b>c</b>   | Enter the EIN of the issuer of the master pool bond ▶ _____  |            |                                     |
| <b>d</b>   | Enter the name of the issuer of the master pool bond ▶ _____   |            |                                     |
| <b>39</b>  | If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . . ▶  |            | <input checked="" type="checkbox"/> |
| <b>40</b>  | If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . . ▶  |            | <input type="checkbox"/>            |
| <b>41a</b> | If the issuer has identified a hedge, check here ▶ <input type="checkbox"/> and enter the following information:   |            |                                     |
| <b>b</b>   | Name of hedge provider ▶ _____   |            |                                     |
| <b>c</b>   | Type of hedge ▶ _____  |            |                                     |
| <b>d</b>   | Term of hedge ▶ _____  |            |                                     |
| <b>42</b>  | If the issuer has superintegrated the hedge, check box . . . . . ▶   |            | <input type="checkbox"/>            |
| <b>43</b>  | If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . ▶ |            | <input type="checkbox"/>            |
| <b>44</b>  | If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . ▶   |            | <input type="checkbox"/>            |
| <b>45a</b> | If some portion of the proceeds was used to reimburse expenditures, check here ▶ <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____  |            |                                     |
| <b>b</b>   | Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____  |            |                                     |

|                               |   |                      |  |   |              |
|-------------------------------|---|----------------------|--|---|--------------|
| <b>Signature and Consent</b>  | Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above. |                      |  |   |              |
|                               | <br>▶ _____<br>Signature of issuer's authorized representative  | <br>_____<br>Date    | <br>▶ <b>Mark McLaughlin, City Manager</b><br>Type or print name and title |   |              |
| <b>Paid Preparer Use Only</b> | Print/Type preparer's name  | Preparer's signature | Date   | Check <input type="checkbox"/> if self-employed | PTIN         |
|                               | Firm's name ▶   |                      |  |   | Firm's EIN ▶ |
|                               | Firm's address ▶  |                      |  |   | Phone no.    |

# **AGENDA ITEM #7**

**City of Kingsville  
Planning and Dev. Services Department**

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TO: Mayor and City Commissioners  
CC: Mark McLaughlin, City Manager  
FROM: Cynthia Martin, Interim Director of Planning and Dev. Services  
DATE: January 9, 2020  
SUBJECT: Request to amend City of Kingsville Code of Ordinances by amending Sec 15-6-21 Definitions to include a definition of climate controlled self-storage.

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**Summary:** It is requested to amend Section 15-6-21 to include a definition of climate-controlled self-storage as *"a self-storage facility consisting mostly of interior units wherein the air temperature and humidity are regulated. These can be found in multi-story buildings."*

**Background:** Climate controlled self-storage is not a listed use currently as a use in Chapter XV, Zoning, Appendix A, Section 1 - Land Use Chart but is being proposed to be added. As a use distinct from storage units that are typically window-less, walled with corrugated metal, accessed by opening a roll-up metal door and lockable by the renter this use may be under certain circumstances i.e. C2 Retail zoning district appropriate in zoning districts wherein the latter is typically found i.e. C4 Commercial zoning district.

**Financial Impact:** None

**Recommendation:** The Planning and Zoning Commission met in a special meeting Wednesday, January 8, 2020 and voted 4 to 0 to recommend approval of the addition of the definition of climate controlled self-storage as *a self-storage facility consisting mostly of interior units wherein the air temperature and humidity are regulated. These can be found in multi-story buildings* be included in Sec. 15-6-21.



ORDINANCE NO.2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES SECTION 15-6-21-DEFINITIONS TO INCLUDE A DEFINITION FOR CLIMATE-CONTROLLED SELF-STORAGE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, there is currently no zoning definition (or zoning category) for climate-controlled self-storage in the City Code of Ordinances and the Planning & Zoning Commission has forwarded to the City Commission its reports and recommendations concerning the proposed zoning ordinance changes; and;

**WHEREAS**, the City Planning and Zoning Commission considered the definition and zoning category for climate-controlled self-storage a publicly posted meeting on January 8, 2020;

**WHEREAS**, the item PASSED with a 4-0 vote of the Planning & Zoning Commission on the requested definition with no abstentions; and

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Sections 15-6-21 of Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 15-6-21 DEFINITIONS.**

...

*Cleaning shop or laundry, limited area.* A custom cleaning shop not exceeding 5,000 square feet of floor area.

*Climate-controlled self-storage.* A self-storage facility consisting mostly of interior units wherein the air temperature and humidity are regulated. These can be found in multi-story buildings.

*Club (private).* An organization, group or association supported by the members thereof, the sole purpose of which is to render a service customarily rendered for members and the guests, the chief activity of which is customarily

carried on as a business and does not include labor union organizations or similar labor or business organizations.

...

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this day on the 13th day of January, 2020.

**PASSED AND APPROVED** on this the 27th day of January, 2020.

EFFECTIVE: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

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Courtney Alvarez, City Attorney

# **AGENDA ITEM #8**

**City of Kingsville**  
**Planning and Dev. Services Department**

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**TO:** Mayor and City Commissioners

**CC:** Mark McLaughlin, City Manager

**FROM:** Cynthia Martin, Interim Director of Planning and Dev. Services

**DATE:** January 9, 2020

**SUBJECT:** Request to amend the City of Kingsville Code of Ordinances by amending Chapter XV, Zoning, Appendix A, Land Use Chart to allow the use of climate-controlled, self-storage by special use permit only in the C2 Retail zoning district and as a permitted use in C4 Commercial, I1 Light Industrial and I2 Heavy Industrial zoning districts

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**Summary:** Climate-controlled self-storage is not a listed use currently in Appendix A, Land Use Chart but a use that could work in the C2 Retail District under certain circumstances and be an appropriate use wherever general storage uses are currently permitted i.e. in the C4 Commercial, I1 Light Industrial and I2 Heavy Industrial zoning districts.

**Background:** The need for a new use category sprang from Mr. Chad Davis wanting to repurpose the existing large, multi-story building at 200 E Kenedy for use as climate-controlled self-storage. The current zoning for this property is C2 Retail wherein storage facilities are not allowed. Climate-controlled self-storage use, as defined above, would not be disruptive to the adjacent retail businesses as those renting interior units would enter and exit the building from the main entrance, park to the front of the building and there would be little difference in the exterior of the building and in its use from when it served as a furniture store – a retail use. By requiring a special use permit for such a use in C2 Retail zoning district, should the use of this building for climate-controlled self-storage cease, the property could only be used for permitted uses in the C2 Retail District zoning as currently laid out in the land use chart.

**Financial Impact:** None.

**Recommendation:** It is recommended to approve of amendment of Appendix A, Land Use Chart to allow the use of climate-controlled self-storage in the C4 Commercial, I1 Light Industrial, I2 Heavy Industrial zoning districts and by special use permit only in the C2 Retail District.

The Planning and Zoning Commission met in a special meeting Wednesday, January 8, 2020 and voted 4 to 0 to recommend approval of the change to Appendix A.



**ORDINANCE NO. 2020-\_\_\_\_\_**

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 6- ZONING, APPENDIX A-LAND USE CATEGORIES TO ADD CLIMATE-CONTROLLED SELF STORAGE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, there is currently no zoning classification for climate-controlled self-storage in the Zoning Land Use Appendix, A and the Planning & Zoning Commission has forwarded to the City Commission its reports and recommendations concerning the proposed zoning ordinance changes; and

**WHEREAS**, the City Planning and Zoning Commission considered the definition and zoning category for climate-controlled self-storage a publicly posted meeting on January 8, 2020;

**WHEREAS**, the item PASSED with a 4-0 vote of the Planning Commission on the requested zoning chart change with no abstentions; and

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, Appendix A-Land Use Categories, Section 1-Land Use Chart shall be amended to read as follows:

*Use Regulations and Districts*

...

**APPENDIX A. - LAND USE CATEGORIES**

**Sec. 1. - Land use chart.**

The following chart shall set out the land uses within the city:

P = Permitted

S = Special use permit required

X = Special review required

= Not permitted (absence of any symbol)

[Land Use Chart on the following pages]

| Land Use Chart  |    |    |    |    |    |    |    |    |    |    |    |    |
|---|----|----|----|----|----|----|----|----|----|----|----|----|
| <i>Agricultural and Related Uses</i>                  | R1 | R2 | R3 | R4 | MH | C1 | C2 | C3 | C4 | I1 | I2 | Ag |
| ...   |    |    |    |    |    |    |    |    |    |    |    |    |
| Welding or machine shop                               |    |    |    |    |    |    |    |    | P  | P  | P  |    |
| Wholesale office, storage, sales not elsewhere listed |    |    |    |    |    |    |    |    | P  | P  | P  |    |
| <u>Climate-controlled self-storage</u>                |    |    |    |    |    |    | S  |    | P  | P  | P  |    |
| Milk depot  |    |    |    |    |    | S  | S  | P  | P  | P  |    |    |
| ...   |    |    |    |    |    |    |    |    |    |    |    |    |

...

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

Effective Date: \_\_\_\_\_, 2020

**INTRODUCED** on this the 13th th day of January, 2020.

**PASSED AND APPROVED** on this the 27th day of January, 2020.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #9**

IBC: Residential, Fuel Gas,  
Mechanical, Plumbing

**City of Kingsville  
Planning and Dev. Services Department**

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TO: Mayor and City Commissioners

CC: Mark McLaughlin, City Manager

FROM: Cynthia Martin, Interim Director of Planning and Dev. Services

DATE: January 2, 2020

SUBJECT: Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

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**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO. 2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 75, 76, 302, and 303, ADOPTING THE 2018 VERSIONS OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE-AND-TWO FAMILY DWELLINGS, THE MECHANICAL CODE, THE FUEL GAS CODE, AND THE PLUMBING CODE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City adopted the 2018 version of the International Building Code and Existing Building Code, as published by the International Code Council, and desires to adopt the 2018 version of four different international codes (one-and-two family dwellings, mechanical, fuel gas, and plumbing);

**WHEREAS**, staff will have copies of the 2018 versions of these codes by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Sections 15-1-75 and 15-1-76 and Sections 15-1-302 and 15-1-303 of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 15-1-75 ADOPTION BY REFERENCE.**

The International Residential Code for One-and-Two Family Dwellings, 2018 ~~2009~~ Edition, as published by the International Code Council, save and except such portions as hereinafter amended, is hereby adopted by reference.

**§ 15-1-76 AMENDMENTS.**

Chapter 1, §R112.1 of the International Residential Code for One-and-Two Family Dwellings, entitled "Board of Appeals", is hereby amended to read "Board of Adjustment" and shall read the same in all other references to such Board in the International Residential Code for One-and-Two Family Dwellings, 2018 ~~2009~~ Edition. The Board shall be the Board of Adjustment as set forth by § 15-6-157 of this chapter. The Board of Adjustment shall have the number of members and

be appointed for the terms specified by § 15-6-157 of this chapter. All subsections of § 106 of the International Residential Code for One-and-Two Family Dwellings which conflict with § 15-6-157 of this chapter shall be governed by § 15-6-157.

Penalty, see 1-1-99

...

**Sec. 15-1-302. - ADOPTION BY REFERENCE.**

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alteration and modification of one and two-family dwellings within the city. All such construction, alteration and modification of one and two-family dwellings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled International Residential Code for One and Two-Family Dwellings, 2018 ~~2009~~ Edition, approved and adopted by the International Code Council with all appendices thereto. Such edition is incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The International Residential Code for One and Two-Family Dwellings, 2018 ~~2009~~ Edition, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every one and two-family dwellings or structure or any appurtenances connected or attached to such one and two-family dwellings or structures.

**Sec. 15-1-303. - ADDITIONS AND AMENDMENTS TO INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS.**

The International Residential Code for One and Two-Family Dwellings, 2018 ~~2009~~ Edition; is hereby modified and changed in the following particulars:

(A) The International Residential Code for One and Two-Family Dwellings, 2018 ~~2009~~ Edition, is hereby amended to add a section entitled "Contractors License Required" which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures and every builder or contractor subletting the same or any part thereof, to pay a license fee of one hundred twenty-five dollars (\$125.00) annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and in case of removal from one place to another to have made corresponding change in the file accordingly. Any person convicted in Municipal

Court of a violation of this code may have his or her license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his or her place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the governing body to present such facts and circumstances that are relevant to the case.

(B) Chapter 1, § R105.2 (Work exempt from permit) shall be amended by the following:

**Building**

1. Permits for one-story detached accessory structures are required.

5. Sidewalks and driveways located in the city street right-of-way shall not be constructed without a permit. The permit for this work shall be considered a curb cut permit and the fee paid in according to § 9-10-35 of the City of Kingsville Code of Ordinances.

(C) Chapter 1, § R 112 108, entitled "Board of Appeals" is hereby amended to read "Board of Adjustment" and shall read the same in all other references to such Board in the International Building Code, 2018 ~~2009~~ Edition.

(D) Chapter 4, § R 401.1, entitled "Application," shall hereby be amended to read: Wood foundations are not permitted. Foundation designs must be provided to the City Planning Department by a Texas Registered Professional Engineer.

(E) Part V - Mechanical shall be amended to read:

Mechanical systems shall be permitted in accordance with the International Mechanical Code, 2018 ~~2009~~ Edition.

(F) Part VI - Fuel gas shall be amended to read:

Fuel Gas Systems shall be permitted in accordance with the International Gas Code, 2018 ~~2009~~ Edition.

(G) Part VII - Plumbing shall be amended to read:

Plumbing systems shall be permitted in accordance with the International Plumbing Code, 2018 ~~2009~~ Edition.

(H) Part VIII - Electrical shall be amended to read:

Electrical Systems shall be permitted in accordance with the 2018 ~~2005~~ National Electric Code.

...

**II.**

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the International Residential Codes hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #10**

**City of Kingsville  
Planning and Dev. Services Department**

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TO: Mayor and City Commissioners  
CC: Mark McLaughlin, City Manager  
FROM: Cynthia Martin, Interim Director of Planning and Dev. Services  
DATE: January 2, 2020  
SUBJECT: Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

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**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO. 2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 36, 37, 40, & 43, ADOPTING THE 2018 VERSION OF THE INTERNATIONAL FUEL GAS CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City Commission approved the adoption of the 2018 editions of the International Building Code and the Existing Building Code, and staff now desires to adopt the 2018 version of the International Fuel Gas Code, as published by the International Code Council;

**WHEREAS**, staff will have a copy of the 2018 version of the code by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 15-1-36 and 15-1-37 and Sections 15-1-40 and 15-1-43 of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

**§ 15-1-36 ADOPTION.**

The purpose of this subarticle is to provide minimum standards, specifications and requirements for safe construction, installation, alteration and modification of gas piping and appliances within the city. All such construction, installation, alteration and modification of buildings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *International Fuel Gas Code, 2018* ~~2009~~ Edition, approved and adopted by the International Code Council with all appendices thereto. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Fuel Gas Code, 2018* ~~2009~~ Edition, shall apply to the construction, alteration, repair, equipment, use, maintenance, or installation of gas piping, appliances, or equipment within the city limits.

**§ 15-1-37 ADDITIONS AND AMENDMENTS TO STANDARD GAS CODE.**

(A) Section 404.3 of the *International Fuel Gas Code*, 2018 ~~2009~~ Edition, is amended to read as follows:

§ 404.3: General: Gas piping may be installed in concealed locations in accordance with this section provided that no pipe smaller than one-half inch (½") shall be used in any concealed location, except as permitted by local authorities.

(B) Section 404.10 of the *International Fuel Gas Code*, 2018 ~~2009~~ Edition, is amended to read as follows:

§ 404.10: Underground piping must be buried underground a minimum of eighteen inches (18") for its entire length below grade, and may not be used within or under any building or slab. Plastic piping may not be used within or under any building or slab.

§ 404.10.1: Individual lines to outside lights, grills or other appliances shall be installed a minimum of eighteen inches (18") below grade , provided that such installation is approved and is installed in locations not susceptible to physical damage.

...

**§ 15-1-40 SCHEDULE OF PERMIT FEES.**

(A) The fees for gas permits as set forth in Section 106.6.2 of the *International Fuel Gas Code*, 2018 ~~2009~~ Edition, are hereby established. A separate permit is required for each address.

| <i>Schedule of Permit Fees</i>  |     |
|---|-----|
| For issuing each permit   | \$5 |
| One to four outlets (inclusive)   | \$5 |
| Each additional outlet  | \$1 |
| Conversion burners, floor furnaces, incinerators, boilers, central heating, or air conditioning | \$5 |
| Each additional   | \$1 |

|  |        |
|--|--------|
| Vented wall furnaces and water heaters<br>(first unit) | \$2.50 |
| Each additional  | \$1    |
| Reinspection fee                                       | \$5    |

...

**§ 15-1-43 VIOLATION; REVOCATION OR SUSPENSION OF LICENSE.**

If any person commences any work upon gas piping or appliances without securing required permits or licenses, or otherwise fails to comply with the provisions of the *International Fuel Gas Code*, ~~2018~~ 2009 Edition, such person shall be deemed to be in violation of this subarticle. Any person convicted a violation under this subarticle may have his city license revoked or suspended by the Municipal Judge or City Commissioners for a period not to exceed two years. Penalty, see § 15-1-999

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the Fuel Gas Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #11**

**City of Kingsville  
Planning and Dev. Services Department**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Cynthia Martin, Interim Director of Planning and Dev. Services  
**DATE:** January 2, 2020  
**SUBJECT:** Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

---

**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO. 2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 135 & 136, ADOPTING THE 2018 VERSION OF THE INTERNATIONAL MECHANICAL CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City Commission adopted the 2018 version of the International Building Code and Existing Building Code and now desires to update other building codes;

**WHEREAS**, staff recommends and the Commission desires to adopt the 2018 version of the International Mechanical Code, as published by the International Code Council;

**WHEREAS**, staff will have a copy of the 2018 version of this code by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 15-1-135 and 15-1-136 of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 15-1-135 ADOPTION.**

The *International Mechanical Code*, 2018 ~~2009~~ Edition, as approved by the International Code Council, is hereby adopted in its entirety except as herein amended and all conflicting ordinances are hereby repealed.

**§ 15-1-136 LICENSES AND PERMITS REQUIRED.**

(A) All persons performing installation, alterations, or repairs must secure a permit prior to starting work when such permit is required by the *International Mechanical Code*. All persons performing mechanical work must file a copy of the appropriate state license with the city unless exempted licensing requirements by state law. Before permits will be issued licensees must pay a

registration fee of \$55 which shall be valid for a calendar year. The fee for renewal of a current registration shall be \$45 if paid before the end of December of each year. Homeowners are specifically exempted from license requirements when performing work on their own homestead.

(B) Nothing contained in this subarticle shall be construed as prohibiting a homeowner from performing work covered by this subarticle on his own homestead; provided, however, all such work must be done in conformance with all other provisions of this subarticle, including those related to permits, inspections, and fees.

(C) Fees listed in Appendix B of the *International Mechanical Code*, 2018 ~~2009~~ Edition, are hereby adopted. If any person starts work on without a permit, the permit fee shall be equal to the cost of the permit times the number of incidents the person has not obtained a permit prior to commencing work.

(1) Permit fees for remodeling, repair (as noted in Section 106.1 of the International Mechanical Code), or alterations to existing buildings costing in excess of \$500 shall be charged a permit fee as listed in Appendix B of the International Mechanical Code, 2018 ~~2009~~ Edition. Duplexes, apartments, hotels, and motels shall be charged an additional fee of \$10.00 per unit. Fees listed in Appendix B of the International Mechanical Code, 2018 ~~2009~~ Edition, are hereby adopted and incorporated herein.

(2) Permit fees; new buildings and additions.

All buildings shall be charged a permit fee \$0.04 per square foot. The minimum fee shall be \$10. Duplexes, apartments, hotels, and motels shall be charged an additional fee of \$10.00 per unit. Fees shall be based upon the conditioned area of the building.

(3) Moved buildings or structures.

A fee of \$0.04 per square foot shall be charged for the issuance of any permit for a moved building or structure. Fees shall be based upon the conditioned area of the building.

(4) Refunds on permits.

No refund will be granted on individual permit fees assessed at the minimum fee amount for a specific type of permit. Refunds of permit fees greater than minimum fee amounts may be made at a rate not to exceed 75% of that portion of the fee in excess of the minimum fee amount provided: (a) no work has commenced, (b) no inspections have been made, and the refund claim is submitted within 180 days after the issuance of the permit. Refund claims must be submitted in writing with a copy of the permit receipt.

...

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the Mechanical Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valezuela, City Secretary

**APPROVED AS TO FORM:**

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Courtney Alvarez, City Attorney

# **AGENDA ITEM #12**

Plumbing  
Code

**City of Kingsville  
Planning and Dev. Services Department**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Cynthia Martin, Interim Director of Planning and Dev. Services  
**DATE:** January 2, 2020  
**SUBJECT:** Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

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**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO.2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 21 & 22, ADOPTING THE 2018 VERSION OF THE INTERNATIONAL PLUMBING CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City Commission adopted the 2018 version of the International Building Code and Existing Building Code and now desires to update other building codes;

**WHEREAS**, staff recommends and the Commission desires to adopt the 2018 version of the International Plumbing Code, as published by the International Code Council;

**WHEREAS**, staff will have a copy of the 2018 version of this code by the effective date of this ordinance;

**WHEREAS**, the Texas State Plumbing Board Examiners adopted Section 1301.551 of the state "Plumbing License Law," thereby not permitting the municipality to require a registration fee or administrative fee.

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 15-1-21 and 15-1-22 of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 15-1-21 ADOPTION BY REFERENCE.**

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alteration and modification of plumbing within the city. All piping and fixtures for the delivery of water or disposal of wastewater shall be installed, replaced, maintained and repaired in conformance with the requirements of this subarticle and to the specifications, rules and regulations entitled *International Plumbing Code*, 2018 ~~2009~~ Edition, in its entirety with all appendices thereto. Such edition is hereby incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When

such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Plumbing Code, 2018 2009 Edition*, shall apply to installation, replacement, maintenance, and repair of all nonutility piping and fixtures for the delivery of water or the disposal of wastewater within the city or that is connected to the city water or wastewater systems.

**§ 15-1-22 ADDITIONS AND AMENDMENTS TO INTERNATIONAL PLUMBING CODE.**

The *International Plumbing Code* is hereby modified and changed in the following particulars:

(A) Section 106.1 of the *International Plumbing Code* shall be amended to read as follows:

§ 106.1 Contractor License: It shall be the duty of every contractor who shall make contracts for the installation or repair of gas, water and wastewater systems which are not owned by a public franchised utility for which a permit is required, and every contractor making such contracts and subletting same, or any part thereof, to register with the City Building Department and have a copy of the same on file with the Building Department, giving full name, residence and place of business, phone number, and appropriate state registration. Upon submission of the license fee and required information, the Building Department shall issue a license to perform plumbing work. In case of removal from one place to another the license holder shall cause to have made corresponding change in the file accordingly. Nothing contained herein shall be construed as prohibiting any individual from installing or repairing his own fixtures or installing, extending, replacing, altering, or repairing plumbing fixtures and piping in their own residence; provided, however, that all such work must be in conformity with all other provisions of this Chapter, including those relating to permits, inspections, and fees.

(B) Section 109.1 of the *International Plumbing Code* shall be amended to read as follows:

§ 109.1 Supervising Board of Plumbers:

(a) Supervising Board of Plumbers Created. There is hereby created the Supervising Board of Plumbers consisting of seven (7) persons. The Board shall include three (3) appointive members and four (4) ex officio members. The appointive members of the Board shall be appointed by the City Commission. The ex officio members shall be the City Manager, the City Engineer, the Health Officer or his agent, and the Plumbing Inspector. The

Supervising Board of Plumbers shall function in lieu of the Board of Appeals described by Section 109 of the International Plumbing Code, 2018 2009 Edition.

(b) Qualifications of Appointive Members. Persons who serve on the Supervising Board of Plumbers shall be qualified as follows: One (1) appointive member shall be a journeyman plumber, one (1) appointive member of the Board shall be a master plumber or plumbing contractor, and one (1) appointive member shall be a person knowledgeable of plumbing such as an engineer, retired contractor, vocational instructor, appliance or hardware dealer, or a journeyman or master plumber.

(c) Tenure of Office. The appointive members of the Supervising Board of Plumbers shall hold office from the date of their appointment and qualification until their successors have been appointed and qualified. The appointment or reappointment of members of the Board shall be such that the first member shall be appointed on or about January 1 of odd numbered years for a term of two (2) years, and the other two (2) members shall be appointed on or about January 1, of even numbered years for a term of two (2) years. Any member of the Board may be removed by the City Commission at any time for cause. Vacancies shall be filled by appointment for the unexpired term.

(d) Compensation. The members of the Supervising Board of Plumbers shall receive no compensation for their services.

(e) Organization of the Supervisory Board. The Board shall select their own chairman and adopt such rules and procedures as they may deem appropriate and necessary.

(f) Powers and Duties. The Board shall hear any appeals for variance or relief from grievances as may be filed which are governed by the International Plumbing Code or this Chapter. The Board shall also act as agent to assure compliance with the State Statutes involving plumbing and the regulations of the Texas State Board of Plumbing Examiners. The Board may also act in matters involving plumbing which may affect the public health.

(g) Quorum. Four (4) members of the Board present at any properly posted meeting shall constitute a quorum for the transaction of business. No vote shall be deemed official without the concurring vote of at least three (3) Board members.

(h) Records. The Board shall keep a minute book in which shall be recorded all transactions and business of the Board.

(C) Section 106.6.1 of the *International Plumbing Code* shall be amended to read as follows:

It shall be unlawful for any persons to commence any plumbing work before obtaining the necessary permit, or otherwise fail to comply with any provision of the *International Plumbing Code*, 2018 ~~2009~~ Edition, or any provision of this subarticle.

(D) Section 109 of the *International Plumbing Code* shall be amended to read as follows:

Supervising Board of Plumbers-Appointment:

(a) Supervising Board of Plumbers Created. There is hereby created the Supervising Board of Plumbers consisting of seven (7) persons. The Board shall include three (3) appointive members and four (4) ex-officio members. The appointive members of the Board shall be appointed by the City Commission. The ex-officio members shall be the City Manager, the City Engineer, the Health Officer or his agent, and the Plumbing Inspector. The Supervising Board of Plumbers shall function instead of the Board of Appeals described by Section 109 of the *International Plumbing Code*, 2018 ~~2009~~ Edition.

...

(f) Powers and Duties. The Board shall hear any appeals for variance or relief from grievances as may be filed which are governed by the *International Plumbing Code* or this Chapter. The Board shall also act as an agent to assure compliance with the State Statutes involving plumbing and the regulations of the Texas State Board of Plumbing Examiners. The Board may also act in matters involving plumbing which may affect public health.

...

## II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

## III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the Existing Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #13**

**City of Kingsville  
Planning and Dev. Services Department**

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TO: Mayor and City Commissioners  
CC: Mark McLaughlin, City Manager  
FROM: Cynthia Martin, Interim Director of Planning and Dev. Services  
DATE: January 2, 2020  
SUBJECT: Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

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**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO. 2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 402 & 403, ADOPTING THE 2018 VERSION OF THE INTERNATIONAL ENERGY CONSERVATION CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City Commission adopted the 2018 version of the International Building Code and Existing Building Code and now desires to update other building codes;

**WHEREAS**, staff recommends and the Commission desires to adopt the 2018 version of the International Energy Conservation Code, as published by the International Code Council;

**WHEREAS**, staff will have a copy of the 2018 version of this code by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 15-1-402 and 15-1-403 of Article 1: Building Regulations of Chapter XV, Building Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 15-1-402 ADOPTION BY REFERENCE.**

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alteration and modification of Residential and Commercial Buildings within the city. All such construction, alteration and modification of Residential and Commercial Buildings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *International Energy Conservation Code, 2018 2009 Edition*, approved and adopted by the International Code Council with all appendices thereto. Such edition is incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Energy Conservation*

Code, 2018 ~~2009~~ Edition, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every Residential and Commercial Buildings or structure or any appurtenances connected or attached to such Residential and Commercial Buildings or structures.

**§ 15-1-403 ADDITIONS AND AMENDMENTS TO INTERNATIONAL ENERGY CONSERVATION CODE.**

The *International Energy Conservation Code*, 2018 ~~2009~~ Edition; is hereby modified and changed in the following particulars:

(A) The *International Energy Conservation Code*, 2018 ~~2009~~ Edition, is hereby amended to add a section entitled "Contractors License Required" which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures and every builder or contractor subletting the same or any part thereof, to pay a license fee of ninety dollars (\$90.00) annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and in case of removal from one place to another to have made corresponding change in the file accordingly. Any person convicted in Municipal Court of a violation of this code may have his license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the governing body to present such facts and circumstances that are relevant to the case.

(B) Chapter 1, § 101.3 (Compliance) shall be amended by the following:

Energy Conservation Systems shall be permitted in accordance with the *International Building Code*, 2018 ~~2009~~ Edition and shall be based upon the valuation of the improvements.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final

judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the Energy Conservation Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #14**

**City of Kingsville  
Planning and Dev. Services Department**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Cynthia Martin, Interim Director of Planning and Dev. Services  
**DATE:** January 2, 2020  
**SUBJECT:** Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

---

**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO. 2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 151 & 152, ADOPTING THE 2018 VERSION OF THE INTERNATIONAL SWIMMING POOL AND SPA CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City Commission adopted the 2018 version of the International Building Code and Existing Building Code and now desires to update other building codes;

**WHEREAS**, staff recommends and the Commission desires to adopt the 2018 version of the International Swimming Pool and Spa Code, as published by the International Code Council;

**WHEREAS**, staff will have a copy of the 2018 version of this code by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 15-1-151 through 15-1-152 of Article 1: Building Regulations of Chapter XV, Building Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

**§ 15-1-151 ADOPTION.**

The purpose of this subarticle is to provide minimum standards for the design, construction or installation, repair or alterations of swimming pools, public or private, and equipment related thereto within the city. All swimming pool work done within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *Standard Swimming Pool Code*, 2018 ~~1997~~ Edition, as approved by the Southern Building Code Congress which is hereby adopted in its entirety, except as herein amended.

(1962 Code, § 4-12-2; Ord. 99015, passed 3-15-99)

**§ 15-1-152 LICENSES AND PERMITS REQUIRED; FEES.**

- (A) It shall be the duty of every contractor who shall make contracts for the construction or installation, repair or alteration of swimming pools to pay a license fee of \$125.00 annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, phone number, and, in case of removal from one place to another, to have made corresponding changes in the file accordingly.
- (B) All persons performing swimming pool work for which a permit is required by this subarticle must secure a permit prior to starting work. Fees listed in § 105 of the *Standard Swimming Pool Code*, 2018 ~~1997~~ Edition, are hereby adopted with the following amendment: For issuing each permit it shall cost \$10.00.
- (C) If any person starts work without a permit, the permit fee shall be equal to the cost of the permit times the number of incidents the person has not obtained a permit prior to commencing work.
- (D) If the inspector determines that public safety has been endangered, a complaint shall be filed in Municipal Court. Upon receiving a conviction, the person shall have their license revoked as follows:
  - (1) 1st conviction three months revocation;
  - (2) 2nd conviction six months revocation;
  - (3) 3rd conviction 12 months revocation;
  - (4) 4th conviction two year revocation;
  - (5) 5th conviction permanently revoked.

(1962 Code, § 4-12-3; Ord. 99015, passed 3-15-99; Ord. 200022, passed 11-20-00)

**Cross reference**— Penalty, see § 1-1-999.

...

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it

is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the Swimming Pool and Spa Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #15**

**City of Kingsville  
Planning and Dev. Services Department**

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TO: Mayor and City Commissioners  
CC: Mark McLaughlin, City Manager  
FROM: Cynthia Martin, Interim Director of Planning and Dev. Services  
DATE: January 2, 2020  
SUBJECT: Adoption of 2018 Editions of Additional International Building Codes and 2017 Edition of the National Electrical Code

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**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter XV, Article 1 Building Regulations to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.

**Background:** On Dec. 17, 2019, City Commission approved the adoption of the 2018 edition of the International Building Code and the 2018 edition of the Existing Building Code. These two codes are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas. The City's Building Official is recommending the adoption of the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes as those most relevant to Kingsville. Note that the ICC family of codes does not address electrical. Therefore, it is recommended to adopt the 2017 National Electrical Code as that is the most recent edition.

**Financial Impact:** It is expected that the adoption of the 2018 edition of the International Building Codes listed above will likely increase construction costs. There should be long term energy savings to offset.

**Recommendation:** It is being recommended to adopt the 2018 editions of the International Residential, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Swimming Pool and Spa Codes and the 2017 edition of the National Electrical Code.



ORDINANCE NO.2020-\_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV-LAND USAGE, ARTICLE 1-BUILDING REGULATIONS, SECTION 15-1-56, ADOPTING THE 2017 EDITION OF THE NATIONAL ELECTRIC CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, the City is updating its building codes and desires to adopt the 2017 version of the National Electric Code to enhance public safety;

**WHEREAS**, staff will have a copy of the 2017 version of the National Electric Code by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 15-1-56 of Article I: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...  
**§ 15-1-56 DEFINITIONS.**

For the purpose of this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not defined in this section shall have the meaning given to them in the 2017 2014 Edition of NFPA 70, National Electric Code.

**APPROVED** or **APPROVAL**. Approved by the Planning Department. Nationally recognized standards shall be the basis of such approval.

**AUTHORIZED PERSON**. An individual or authorized representative of a firm or corporation who is licensed under the provisions of this subarticle to do the work provided by this subarticle.

**BOARD**. The Electrical Examining Board as created in this subarticle.

**CITY**. The territory within the corporate limits of the City of Kingsville, Texas.

**CONDUCTOR.** A wire or cable or other form of metal suitable for carrying electrical current or potential.

**ELECTRICAL CONSTRUCTION.** All work and material used in installing, maintaining and extending a system of electrical wiring and all appurtenances, apparatus and equipment used in connection therewith, inside of or attached to any building or structure.

**ELECTRICAL CONTRACTOR.** Any person engaged in the business of installing, maintaining or altering, by contract, electrical conductors or equipment, and who is qualified under terms and provisions of this subarticle.

**ELECTRICIAN.** A person engaged in the business of electrical construction, maintenance and repair, and who is qualified under the provisions of this subarticle.

**EQUIPMENT.** Materials, fittings, motors and the like, used as a part of or in connection with electrical installations.

**INSPECTOR.** An individual who has been designated by the city as an Electrical Inspector.

**MAINTENANCE WORK.** The act of keeping in safe operating condition any conductor or piece of equipment in any and all existing electrical installations, but does not include the installation of additional electrical work, electrical equipment or apparatus.

**OWNER.** Any person holding legal title to any real property within the city.

**REGISTERING.** That person who has satisfied the Examining Board of Electricians and has satisfied the Board that he is qualified to do the work stated in the application, that he has paid the necessary registration fees to date, and that his name is carried in the records of the Electrical Inspector as qualified under the provisions of this code.

**SPECIAL RULING.** A written ruling or decision passed by the Board and filed in the office of the Electrical Inspector.

...

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other

section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the National Electric Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this day on the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27th day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #16**

Prop. Maintenance  
code

**City of Kingsville  
Planning and Dev. Services Department**

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**TO:** Mayor and City Commissioners  
**CC:** Mark McLaughlin, City Manager  
**FROM:** Cynthia Martin, Interim Director of Planning and Dev. Services  
**DATE:** January 2, 2020  
**SUBJECT:** Adoption of 2018 Edition of the Property Maintenance Code

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**Summary:** This item authorizes the amendment of the Kingsville Code of Ordinances, Chapter IX, Article 7 Nuisances to adopt the 2018 edition of the International Property Maintenance Code.

**Background:** In 2014, the City of Kingsville adopted the 2009 edition of the International Property Maintenance Code (IPMC). On Dec. 17, 2019, City Commission approved the adoption of the 2018 version of the International Building Code, the 2018 version of the Existing Building Code and the 2018 Edition of the International Fire Code. These codes, including the International Property Maintenance Code, are part of a family of International Codes developed by the International Code Council (ICC). This family consists of fifteen separate codes all of which are adopted for use by the State of Texas.

**Financial Impact:** No financial impact. Fees for services are being charged based on current FEMA rates and raise as they do.

**Recommendation:** It is being recommended to adopt the 2018 edition of the Property Maintenance Code.



ARTICLE 7. - NUISANCES<sup>(8)</sup>

Footnotes:

--- (8) ---

Editor's note— Ord. No. 2014-08, § I, adopted March 10, 2014, amended article 7 in its entirety to read as herein set out. Former article 7, §§ 9-7-1—9-7-4, pertained to similar subject matter. See Code Comparative Table for complete derivation.

Sec. 9-7-1. - Adoption by reference: international property maintenance code.

- (A) A certain document being marked and designated as the International Property Maintenance Code (IPMC), 2009 [REDACTED] Edition, including all future amendments of or revisions to such code, as published by the International Code Council (ICC), be and is hereby adopted as the Property Maintenance Code of the City of Kingsville in the State of Texas for regulating and governing the conditions and maintenance of all property, buildings and structures:
- a. By providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and
  - b. The condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures as herein provided; and
  - c. Providing for the issuance of permits and collection of fees; and
  - d. Each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the offices of the Community Appearance Division and the Building Services Division of the City of Kingsville are hereby referred to, adopted, and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, which shall be documented in this article.
- (B) Two (2) copies of the IPMC adopted in this shall be available for viewing. One of which will be located in the office of the Community Appearance Division and one within the office of the Building Services Division.
- (C) This Section shall not be interpreted to relieve from responsibility or to lessen the responsibility of any person owning, controlling, or occupying any structure. Nor shall the City be held as assuming liability or duty of any nature by reason of inspection authority issued by the City to City Code Enforcement Officers or Building Officials or Inspectors for maintenance of the property.
- (D) *Enforcement.* The Code hereby adopted shall be enforced by the ~~Community Appearance Supervisor~~ [REDACTED] or the Building Official, who may delegate such enforcement authority to such assistants and subordinates as the needs of the City may require.

(Ord. 2014-08, § I., 3-10-14)

Sec. 9-7-2. - Additions and amendments to international property maintenance code.

The International Property Maintenance Code is hereby modified and changed in the following particulars:

- (A) Section 101.1 of the International Property Maintenance Code shall be amended to read as follows:

§101.1 Title. These regulations shall be known as the International Property Maintenance Code of the City of Kingsville, hereinafter referred to as "this code."

- (B) Section 103.5 entitled "Fees" of the International Property Maintenance Code shall be amended to read as follows:

§103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as directed in Sections 9-7-5 and 9-7-6 of this Article.

- (C) Section 106 entitled "Violations." This section of the International Property Maintenance Code is hereby substituted to read the same as §9-7-5 of this Article and shall read the same in all other references to Section 106 Violations in the International Property Maintenance Code, 2009 [REDACTED] Edition.

- (D) Section 107 entitled "Notices and Orders." This section of the International Property Maintenance Code is hereby substituted to read the same as §9-7-5 of this Article and shall read the same in all other references to Section 107 "Notices and Orders" in the International Property Maintenance Code, 2009 [REDACTED] Edition, unless otherwise noted in this subsection.

- (E) Section 108.3 entitled "Notice" of the International Property Maintenance Code shall be amended to read as follows:

§108.3 Notice. Whenever the code official has condemned a structure or equipment under the provision of this section and/or §15-1-165 through §15-1-167, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or person or persons responsible for the structure or equipment in accordance with §15-1-167(B) and §15-1-168. If the notice pertains to equipment it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in §15-1-167(B).

- (F) Section 110 entitled "Demolition." This section of the International Property Maintenance Code is hereby substituted to read the same as §15-1-167 through §15-1-176 of Chapter 15 "Land Usage", Article 1 "Building Regulations" and shall read the same in all other references to Section 110 "Demolition" in the International Property Maintenance Code, 2009 [REDACTED] Edition.

- (G) Section 111 entitled "Means of Appeal." This section of the International Property Maintenance Code, is hereby amended to read "Board of Adjustment" [REDACTED] (?) and shall read the same in all other references to such Board in the International Property Maintenance Code, 2009 [REDACTED] Edition. ~~The Board shall be the Board of Adjustment as set forth by §15-1-157. The Board of Adjustment shall have the number of members to be appointed for the terms specified by §15-1-157. All subsections of §111 of the International Property Maintenance Code which conflict with §15-1-157 shall be governed by §15-1-157.~~

- (H) Section 302.4 entitled "Weeds" of the International Property Maintenance Code shall be amended to read as follows:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to corrective action in accordance with §9-7-5 and/or the prosecution in accordance with §9-7-99 of this Article.

- (I) Section 304.14 entitled "Insect Screens" of the International Property Maintenance Code shall be amended to read as follows:

304.14 Insect Screens. During the period from January 1 to December 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas where products to be included or utilized in food for human consumption are

processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

- (J) Section 602.3 entitled "Heat Supply" of the International Property Maintenance Code shall be amended to read as follows:

602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on term, either expressed or implied, to furnish heat to the occupants thereof shall supply heat through the form of a functional heating system during the period from November 1 to March 1 to maintain a temperature of not less than 68 degrees Fahrenheit (20 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30 degrees Fahrenheit (-1 degree Celsius) a minimum temperature of 65 degrees Fahrenheit (18 degrees Celsius) shall be maintained.

- (K) Section 602.4 entitled "Occupiable Work Spaces" of the International Property Maintenance Code shall be amended to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from November 1 to March 1 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(Ord. 2014-08, § I., 3-10-14)

Sec. 9-7-3. - Acts prohibited.

- (A) It shall be unlawful for any person to contract, cause to be constructed, or permit to remain construct any building which violates any provision of such Code.
- (B) It shall be unlawful for any person to intentionally, knowingly, recklessly, or acting with criminal negligence deposit noxious matter on the premises of another.
- (C) It shall be unlawful for any person after receiving notice in accordance herewith to intentionally, knowingly, recklessly, or acting with criminal negligence to permit noxious matter to remain on premises under his care, control or custody.
- (D) It shall be an affirmative defense to the unlawful acts described herein that the person was permitted or required by law to deposit or permit to remain such noxious matter. The affirmative defense is valid only if the afore-mentioned permission or requirement is in strict accordance with law, including, without limitation, the manner of depositing or allowing to remain.

(E) It is a defense to prosecution under this section that the vegetation is:

- (1) Located on heavily wooded real property or portion thereof that reasonably prevents the operation of mowing machines;
- (2) An agricultural crop, cultivated shrub, flowers or other decorative ornamental plant under cultivation; or
- (3) Wildflowers, but only until the time as seeds have matured followed the final blooming of the majority of the plants.

A person who meets the requirements of an affirmative defense as set out in this subsection is still required to maintain a 50 foot mowed buffer between his and another property.

(Ord. 2014-08, § I., 3-10-14)

Sec. 9-7-4. - Definitions.

As used in this Article the following terms shall have the following meanings, to wit:

*ABATE.* To eliminate by removal, repair, rehabilitation, or demolition.

*DEPOSIT.* Any divestiture of possession whether such divestiture of possession is actual or constructive.

*NOTICE* shall mean:

- (1) Personal notice to the owner in writing, or
- (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, or
- (3) If personal service cannot be obtained or the owner's address is unknown, then, notice shall be:
  - (a) by publication at least once; or
  - (b) by posting the notice on or near the front door of each building on the property to which the violation relates; or
  - (c) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (4) If a notice to a property owner is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

*NOXIOUS MATTER.* Any matter which is or is not subject to the process of oxidation and shall include, without limitation, filth; carrion; impure or unwholesome substances; weeds, grass, or similar vegetation in excess of 12 inches; refuse; rubbish; brush; and any other substance which would be objectionable, unsightly, or unsanitary to a reasonable person.

*PERMIT TO REMAIN.* Failure to remove on a permanent basis within the time required by law as specified by any notice to abate noxious matter that is provided for herein.

*PREMISES.* All privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, other structure appurtenant to the property, or easily accessible easements, alleys, and rights of way.

*PREMISES OF ANOTHER.* Property over which a person has no right of care, control, or custody. Property under the care, control, or custody of the State of Texas or any of its political subdivisions shall always constitute "premises of another."

*REFUSE.* Garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.

*RUBBISH.* Non-decayable waste from a public or private establishment or residence.

*WEEDS.* All rank and uncultivated vegetable growth or matter that:

- (A) has grown to more than 12 inches in height; or
- (B) may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

(Ord. 2014-08, § I., 3-10-14; Ord. 2014-46, 8-11-2014)

Sec. 9-7-5. - Correction by city; lien.

- (A) That the provisions of this section shall be cumulative of any criminal penalties or civil remedies provided for herein.
- (B) Upon a determination that noxious matter exists upon a premises, the owner of the premises shall be given notice to abate such noxious matter within seven days after the receipt of such notice. Should the owner of the premises fail to comply with such notice of abatement within seven days, the city may:
  - (1) Do the work or make the improvements required; and
  - (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.
- (C) The city in the notice of violation may inform the owner:
  - (1) By mail and a posting on the property; or
  - (2) By personally delivering the notice that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owners' expense and assess the expense against the premises.
- (D) After the work has been completed and paid for by the city, a statement of expenses incurred by the city to abate such conditions and administrative fees as prescribed by separate ordinance shall be mailed to the owner of the property. The owner of the property shall pay for work and administrative fees within 30 days of the date of mailing thereof.
- (E) In the event that the amount shown on the said statement for the work and administrative fees has not been paid within 30 days of mailing, the city shall assess expenses incurred under this section as follows:
  - (1) The Mayor or City Manager shall file a statement of such expenses and administrative fees incurred, giving the amount of such expenses, date on which the work was done or improvements made, state the name of the owner (if known) and the legal description of the property. The statement shall be filed with the County Clerk, and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of Tex. Health & Safety Code § 342.006 et seq. This lien shall be second only to tax liens and liens for street improvements; and the amount shall bear 10% interest per annum on the amount due from the date of payment by the city.
  - (2) It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city, and the statement of expenses and administrative fees so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. Should the City file suit to foreclose on any liens to recover unpaid expenditures, fees, interest, and expenses, it shall also

be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.

- (F) The remedy provided by the assessment and foreclosure of lien is in addition to any criminal penalties or other civil remedies provided for herein.
- (G) The city may foreclose a lien on property established herein in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, as amended or hereinafter amended.

(Ord. 2014-08, § I., 3-10-14; Ord. No. 2014-74, § I, passed 12-15-2014, eff. 12-31-2014)

Sec. 9-7-6. - Abatement of nuisance lots; administrative fees.

For each abatement of nuisance lots that are in violation of § 9-7-1 through § 9-7-3 of this code, the fee for abatement of administration is \$150.00. This fee is to cover the labor, fuel, vehicle expenses, photographic expenses, notice and postage expenses from the initial inspection through the time of abatement and submittal for invoicing.

(Ord. 2014-08, § I., 3-10-14)

Sec. 9-7-7. - Conflicting ordinances; more restrictive to prevail.

Should this Article conflict with any other ordinance of the city relating to nuisances and/or property maintenance, the more restrictive shall prevail.

(Ord. 2014-08, § I., 3-10-14)

Secs. 9-7-8—9-7-98. - Reserved.

Sec. 9-7-99. - Criminal penalties; civil remedies.

- (A) Unless otherwise provided for herein, punishment for any violation of this article shall be as follows, to wit: a fine of not less than \$150.00 nor more than \$2,000.00.
- (B) If noxious matter is deposited on the property of another, upon conviction, punishment shall be assessed at a fine of not less than \$500.00 nor more than \$2,000.00.
- (C) If noxious matter is deposited on the property of the State of Texas, or any political subdivision thereof, upon conviction, punishment shall be assessed at a fine of not less than \$500.00 nor more than \$2,000.00.
- (D) If noxious material is deposited in any storm sewer system or sanitary sewer system of the city, upon conviction, punishment shall be assessed at a fine of not less than \$1,800.00 nor more than \$2,000.00.
- (E) Each day or each occurrence, whichever more often occurs, shall constitute a separate offense.
- (F) The recidivist provisions of the laws of the State of Texas shall be fully applicable and, if no such provisions are applicable, on the second and all subsequent offenses the minimum and maximum fine shall be twice that hereinbefore set out, provided that, in those cases herein where specific punishments for subsequent convictions are provided these specific punishments shall prevail over this division.
- (G) In those instances in which noxious matter is deposited into the storm sewer system or sanitary sewer system of the city, the City Attorney may apply to a court of competent jurisdiction to request the court to order any corporeal personal property used in such deposit to escheat to the City of Kingsville or, in the alternative, that it be destroyed as contraband or a criminal instrument.

(H) Any signs or similar non-transitory structures deposited on any public street, highway, or right-of-way are declared nuisances. They shall be summarily abated and all costs for such abatement shall be collected from the owner or special owner thereof. This remedy shall be cumulative of any criminal provisions provided for herein.

(Ord. 2014-08, § I., 3-10-14)

**ORDINANCE NO. 2020-\_\_\_\_\_**

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTIONS 1 THROUGH 99, ADOPTING THE 2018 VERSION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, in December 2019 the City Commission approved the adoption of the 2018 editions of the International Building Code and the Existing Building Code, and staff now believes the adoption of the International Property Maintenance Code is needed;

**WHEREAS**, staff recommends adopting the 2018 edition of the International Property Maintenance Code, as published by the International Code Council, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Kingsville; providing for the issuance of permits and collection of fees therefor;

**WHEREAS**, the code is founded on principles intended to establish provision consistent with the scope of a property maintenance code that adequately protects public health, safety and welfare; provisions that do not unnecessarily increase construction costs; provision that do not restrict the use of new materials, products or methods of construction; and provision that do not give preferential treatment to particular types or classes of materials, products or methods of construction;

**WHEREAS**, staff will have a copy of the 2018 edition of the International Property Maintenance Code by the effective date of this ordinance;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

**THAT** Section 9-7-1 through 9-7-99 of Article 1: Building Regulations of Chapter XV, Building Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be adopted and shall read as follows:

ARTICLE 7. - NUISANCES<sup>(8)</sup>

Footnotes:

--- (8) ---

Editor's note— Ord. No. 2014-08, § 1, adopted March 10, 2014, amended article 7 in its entirety to read as herein set out. Former article 7, §§ 9-7-1—9-7-4, pertained to similar subject matter. See Code Comparative Table for complete derivation.

**§ 9-7-1 ADOPTION BY REFERENCE: INTERNATIONAL PROPERTY MAINTENANCE CODE.**

- (A) A certain document being marked and designated as the International Property Maintenance Code (IPMC), 2018 ~~2009~~ Edition, including all future amendments of or revisions to such code, as published by the International Code Council (ICC), be and is hereby adopted as the Property Maintenance Code of the City of Kingsville in the State of Texas for regulating and governing the conditions and maintenance of all property, buildings and structures:
- a. By providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and
  - b. The condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures as herein provided; and
  - c. Providing for the issuance of permits and collection of fees; and
  - d. Each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the offices of the Code Compliance ~~Community Appearance~~ Division and the Building Services Division of the City of Kingsville are hereby referred to, adopted, and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, which shall be documented in this article.
- (B) Two (2) copies of the IPMC adopted in this shall be available for viewing. One of which will be located in the office of the Code Compliance ~~Community Appearance~~ Division and one within the office of the Building Services Division.
- (C) This Section shall not be interpreted to relieve from responsibility or to lessen the responsibility of any person owning, controlling, or occupying any structure. Nor shall the City be held as assuming liability or duty of any nature by reason of inspection authority issued by the City to City Code Enforcement Officers or Building Officials or Inspectors for maintenance of the property.
- (D) *Enforcement.* The Code hereby adopted shall be enforced by the Code Enforcement Officer ~~Community Appearance Supervisor~~ or the Building Official, who may delegate such enforcement authority to such assistants and subordinates as the needs of the City may require.

(Ord. 2014-08, § 1., 3-10-14)

**§ 9-7-2 ADDITIONS AND AMENDMENTS TO INTERNATIONAL PROPERTY MAINTENANCE CODE.**

The International Property Maintenance Code is hereby modified and changed in the following particulars:

- (A) Section 101.1 of the International Property Maintenance Code shall be amended to read as follows:

§101.1 Title. These regulations shall be known as the International Property Maintenance Code of the City of Kingsville, hereinafter referred to as "this code."

- (B) Section 103.5 entitled "Fees" of the International Property Maintenance Code shall be amended to read as follows:

§103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as directed in Sections 9-7-5 and 9-7-6 of this Article.

- (C) Section 106 entitled "Violations." This section of the International Property Maintenance Code is hereby substituted to read the same as §9-7-5 of this Article and shall read the same in all other references to Section 106 Violations in the International Property Maintenance Code, 2018 ~~2009~~ Edition.

- (D) Section 107 entitled "Notices and Orders." This section of the International Property Maintenance Code is hereby substituted to read the same as §9-7-5 of this Article and shall read the same in all other references to Section 107 "Notices and Orders" in the International Property Maintenance Code, 2018 ~~2009~~ Edition, unless otherwise noted in this subsection.

- (E) Section 108.3 entitled "Notice" of the International Property Maintenance Code shall be amended to read as follows:

§108.3 Notice. Whenever the code official has condemned a structure or equipment under the provision of this section and/or §15-1-165 through §15-1-167, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or person or persons responsible for the structure on equipment in accordance with §15-1-167(B) and §15-1-168. If the notice pertains to equipment it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in §15-1-167(B).

- (F) Section 110 entitled "Demolition." This section of the International Property Maintenance Code is hereby substituted to read the same as §15-1-167 through §15-1-176 of Chapter 15 "Land Usage", Article 1 "Building Regulations" and shall read the same in all other references to Section 110 "Demolition" in the International Property Maintenance Code, 2018 ~~2009~~ Edition.

- (G) Section 111 entitled "Means of Appeal." This section of the International Property Maintenance Code, is hereby amended to read "City Commission" "~~Board of Adjustment~~" and shall read the same in all other references to such Board in the International Property Maintenance Code, 2018 ~~2009~~ Edition. ~~The Board shall be the Board of Adjustment as set forth by §15-1-157. The Board of~~

~~Adjustment shall have the number of members to be appointed for the terms specified by §15-1-157. All subsections of §111 of the International Property Maintenance Code which conflict with §15-1-157 shall be governed by §15-1-157.~~

- (H) Section 302.4 entitled "Weeds" of the International Property Maintenance Code shall be amended to read as follows:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to corrective action in accordance with §9-7-5 and/or the prosecution in accordance with §9-7-99 of this Article.

- (I) Section 304.14 entitled "Insect Screens" of the International Property Maintenance Code shall be amended to read as follows:

304.14 Insect Screens. During the period from January 1 to December 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

- (J) Section 602.3 entitled "Heat Supply" of the International Property Maintenance Code shall be amended to read as follows:

602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on term, either expressed or implied, to furnish heat to the occupants thereof shall supply heat through the form of a functional heating system during the period from November 1 to March 1 to maintain a temperature of not less than 68 degrees Fahrenheit (20 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full

capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

2. In areas where the average monthly temperature is above 30 degrees Fahrenheit (-1 degree Celsius) a minimum temperature of 65 degrees Fahrenheit (18 degrees Celsius) shall be maintained.

- (K) Section 602.4 entitled "Occupiable Work Spaces" of the International Property Maintenance Code shall be amended to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from November 1 to March 1 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(Ord. 2014-08, § I., 3-10-14)

### **§ 9-7-3 ACTS PROHIBITED.**

- (A) It shall be unlawful for any person to contract, cause to be constructed, or permit to remain construct any building which violates any provision of such Code.
- (B) It shall be unlawful for any person to intentionally, knowingly, recklessly, or acting with criminal negligence deposit noxious matter on the premises of another.
- (C) It shall be unlawful for any person after receiving notice in accordance herewith to intentionally, knowingly, recklessly, or acting with criminal negligence to permit noxious matter to remain on premises under his care, control or custody.
- (D) It shall be an affirmative defense to the unlawful acts described herein that the person was permitted or required by law to deposit or permit to remain such noxious matter. The affirmative defense is valid only if the afore-mentioned permission or requirement is in strict accordance with law, including, without limitation, the manner of depositing or allowing to remain.
- (E) It is a defense to prosecution under this section that the vegetation is:
- (1) Located on heavily wooded real property or portion thereof that reasonably prevents the operation of mowing machines;
  - (2) An agricultural crop, cultivated shrub, flowers or other decorative ornamental plant under cultivation; or
  - (3) Wildflowers, but only until the time as seeds have matured followed the final blooming of the majority of the plants.

A person who meets the requirements of an affirmative defense as set out in this subsection is still required to maintain a 50 foot mowed buffer between his and another property.

(Ord. 2014-08, § I., 3-10-14)

#### **§ 9-7-4 DEFINITIONS.**

As used in this Article the following terms shall have the following meanings, to wit:

*ABATE.* To eliminate by removal, repair, rehabilitation, or demolition.

*DEPOSIT.* Any divestiture of possession whether such divestiture of possession is actual or constructive.

*NOTICE* shall mean:

- (1) Personal notice to the owner in writing, or
- (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, or
- (3) If personal service cannot be obtained or the owner's address is unknown, then, notice shall be:
  - (a) by publication at least once; or
  - (b) by posting the notice on or near the front door of each building on the property to which the violation relates; or
  - (c) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (4) If a notice to a property owner is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

*NOXIOUS MATTER.* Any matter which is or is not subject to the process of oxidation and shall include, without limitation, filth; carrion; impure or unwholesome substances; weeds, grass, or similar vegetation in excess of 12 inches; refuse; rubbish; brush; and any other substance which would be objectionable, unsightly, or unsanitary to a reasonable person.

*PERMIT TO REMAIN.* Failure to remove on a permanent basis within the time required by law as specified by any notice to abate noxious matter that is provided for herein.

*PREMISES.* All privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, other structure appurtenant to the property, or easily accessible easements, alleys, and rights of way.

*PREMISES OF ANOTHER.* Property over which a person has no right of care, control, or custody. Property under the care, control, or custody of the State of Texas or any of its political subdivisions shall always constitute "premises of another."

*REFUSE.* Garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.

*RUBBISH.* Non-decayable waste from a public or private establishment or residence.

*WEEDS.* All rank and uncultivated vegetable growth or matter that:

- (A) has grown to more than 12 inches in height; or
- (B) may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

(Ord. 2014-08, § 1., 3-10-14; Ord. 2014-46, 8-11-2014)

#### **§ 9-7-5 CORRECTION BY CITY; LIEN.**

- (A) That the provisions of this section shall be cumulative of any criminal penalties or civil remedies provided for herein.
- (B) Upon a determination that noxious matter exists upon a premises, the owner of the premises shall be given notice to abate such noxious matter within seven days after the receipt of such notice. Should the owner of the premises fail to comply with such notice of abatement within seven days, the city may:
  - (1) Do the work or make the improvements required; and
  - (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.
- (C) The city in the notice of violation may inform the owner:
  - (1) By mail and a posting on the property; or
  - (2) By personally delivering the notice that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the premises.
- (D) After the work has been completed and paid for by the city, a statement of expenses incurred by the city to abate such conditions and administrative fees as prescribed by separate ordinance shall be mailed to the owner of the property. The owner of the property shall pay for work and administrative fees within 30 days of the date of mailing thereof.
- (E) In the event that the amount shown on the said statement for the work and administrative fees has not been paid within 30 days of mailing, the city shall assess expenses incurred under this section as follows:

- (1) The Mayor or City Manager shall file a statement of such expenses and administrative fees incurred, giving the amount of such expenses, date on which the work was done or improvements made, state the name of the owner (if known) and the legal description of the property. The statement shall be filed with the County Clerk, and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of Tex. Health & Safety Code § 342.006 et seq. This lien shall be second only to tax liens and liens for street improvements; and the amount shall bear 10% interest per annum on the amount due from the date of payment by the city.
  - (2) It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city, and the statement of expenses and administrative fees so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements. Should the City file suit to foreclose on any liens to recover unpaid expenditures, fees, interest, and expenses, it shall also be entitled to collect the maximum interest rate allowed, reasonable attorney's fees and other court costs and fees allowable under the law.
- (F) The remedy provided by the assessment and foreclosure of lien is in addition to any criminal penalties or other civil remedies provided for herein.
- (G) The city may foreclose a lien on property established herein in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, as amended or hereinafter amended.

(Ord. 2014-08, § I., 3-10-14; Ord. No. 2014-74, § I, passed 12-15-2014, eff. 12-31-2014)

#### **§ 9-7-6 ABATEMENT OF NUISANCE LOTS; ADMINISTRATIVE FEES.**

For each abatement of nuisance lots that are in violation of § 9-7-1 through § 9-7-3 of this code, the fee for abatement of administration is \$150.00. This fee is to cover the labor, fuel, vehicle expenses, photographic expenses, notice and postage expenses from the initial inspection through the time of abatement and submittal for invoicing.

(Ord. 2014-08, § I., 3-10-14)

**§ 9-7-7 CONFLICTING ORDINANCES; MORE RESTRICTIVE TO PREVAIL.**

Should this Article conflict with any other ordinance of the city relating to nuisances and/or property maintenance, the more restrictive shall prevail.

(Ord. 2014-08, § I., 3-10-14)

Secs. 9-7-8—9-7-98. - Reserved.

**§ 9-7-99 CRIMINAL PENALTIES; CIVIL REMEDIES.**

- (A) Unless otherwise provided for herein, punishment for any violation of this article shall be as follows, to wit: a fine of not less than \$150.00 nor more than \$2,000.00.
- (B) If noxious matter is deposited on the property of another, upon conviction, punishment shall be assessed at a fine of not less than \$500.00 nor more than \$2,000.00.
- (C) If noxious matter is deposited on the property of the State of Texas, or any political subdivision thereof, upon conviction, punishment shall be assessed at a fine of not less than \$500.00 nor more than \$2,000.00.
- (D) If noxious material is deposited in any storm sewer system or sanitary sewer system of the city, upon conviction, punishment shall be assessed at a fine of not less than \$1,800.00 nor more than \$2,000.00.
- (E) Each day or each occurrence, whichever more often occurs, shall constitute a separate offense.
- (F) The recidivist provisions of the laws of the State of Texas shall be fully applicable and, if no such provisions are applicable, on the second and all subsequent offenses the minimum and maximum fine shall be twice that hereinbefore set out, provided that, in those cases herein where specific punishments for subsequent convictions are provided these specific punishments shall prevail over this division.
- (G) In those instances in which noxious matter is deposited into the storm sewer system or sanitary sewer system of the city, the City Attorney may apply to a court of competent jurisdiction to request the court to order any corporeal personal property used in such deposit to escheat to the City of Kingsville or, in the alternative, that it be destroyed as contraband or a criminal instrument.
- (H) Any signs or similar non-transitory structures deposited on any public street, highway, or right-of-way are declared purprestures. They shall be summarily abated and all costs for such abatement shall be collected from the owner or special owner thereof. This remedy shall be cumulative of any criminal provisions provided for herein.

(Ord. 2014-08, § I., 3-10-14)

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance is, for any reason, held to be invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

V.

**THAT** nothing in this ordinance or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**INTRODUCED** on this the 13<sup>th</sup> day of January, 2020.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

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Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

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Courtney Alvarez, City Attorney

# **AGENDA ITEM #17**



**CITY OF KINGSVILLE  
LEGAL DEPARTMENT**

P.O. Box 1458, Kingsville Texas 78364 Phone: 361-595-8016 Fax: 361-592-4696

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Date: January 8, 2020

To: City Commission Members

From: Courtney Alvarez, City Attorney

Re: Charter Review Committee Update-Proposals

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**Background:** At the City Commission meeting on May 28, 2019, the City Commission voted to create a new charter review committee. The charter was last amended in 2006 and could benefit from a review. The Commission determined the Charter Review Committee would be comprised of seven (7) positions with each City Commission Member appointing one person to the Committee with the entire Commission appointing the remaining two (2) positions to the Committee.

The appointed Charter Review Committee members worked on reviewing the City's charter and making recommendations for changes with the assistance of the City Attorney. It was the intent that any recommendations for changes to the charter be determined by the committee and then the City Commission would consider them in January 2020 for possible placement on the ballot for the next city election scheduled for May of 2020.

The Committee met and has provided recommendations to the City Commission. A copy of the five proposals approved by a majority of the Committee are attached hereto. The Commission can discuss them and consider authorizing staff to move forward with them at the meeting on either January 13<sup>th</sup> or 27<sup>th</sup> of 2020. This will allow preparation and translation of the ballot language and the preparation of calling a special election for the proposals, in conjunction with the already scheduled General Election, in May 2020. A decision must be made by the Commission on or about February 10, 2020 in order for the proposals to move forward this year.

**Analysis:** Review the proposals and consider whether to authorize staff to move forward with them.

**Staff Recommendation:** Review the proposals from the Committee and consider whether to authorize staff to move forward with placing them on the May 2020 ballot.

**Commission Action:** 1) Review the proposals from the Committee. 2) Consider on January 13<sup>th</sup> or 27<sup>th</sup> whether to authorize staff to move forward with placing them on the May 2020 ballot.

## CHARTER AMENDMENT PROPOSALS

1. Change Article V, Section 2-Terms of Office from 2 years to 4 years with staggered terms, to read:

### **Section 2. - Terms of office.**

Effective with the biennial general election to be held in 2020, persons elected for City Commission who receive the 1<sup>st</sup> and 3<sup>rd</sup> most votes and the Mayor shall hold their respective offices for four (4) years, and until their successors are elected and qualified unless sooner removed as provided by Charter or the laws of the State of Texas. Effective with the biennial general election to be held in 2020, persons elected for City Commission positions who receive the 2<sup>nd</sup> and 4<sup>th</sup> most votes shall hold their respective offices for two (2) years and thereafter the two Commissioner positions will be elected for four (4) years, and until their successors are elected and qualified unless sooner removed as provided by Charter or the laws of the State of Texas. City Commission members will be elected for four (4) year terms at each biennial general election thereafter until his successor is elected and qualified, unless sooner removed from office as herein provided. The Mayor and each Commissioner shall serve, after the first election for Commissioners as hereinafter provided, for a term of two (2) years and until his successor is elected and qualified, unless sooner removed from office as herein provided.

2. If do #1 above, then may want to consider proposing change to Article II, Section 24-Recall, (2) Restrictions on Recall to change the time limit from 6 months to 1 year, to read:

### **Section 24. - Recall.**

*(2) Restrictions on recall.* No recall petition shall be filed against any officer of the City within ~~six (6)~~ twelve (12) months after such officer's election or appointment, nor within ~~six (6)~~ twelve (12) months after an election for such officer's recall, nor within ~~six (6)~~ twelve (12) months of the expiration of such officer's term.

3. Change Section 4-Qualifications in Article V to read:

### **Section 4. - Qualifications.**

The Mayor and each Commissioner shall be citizens of the United States, and have resided in the City of Kingsville for a continuous period of 12 months immediately preceding election day, and have attained the age of 21 years at the time of filing as a candidate for such position; and have the other qualifications of an Elector in the City and as provided for candidates in the State Election Code. ~~The Mayor and each Commissioner shall not be in arrears in the payment of any taxes or other liabilities to local taxing entities. ("In arrears" is defined herein to mean that payment has not been received within ninety (90) days from due date.)~~ The Mayor, Commissioners, and other officers and employees shall not hold any other public office of emolument, except the Office of Notary Public, and shall not be interested in the profits or emoluments or any contract, job, work or service for the municipality, or interested in the sale to or by the City of any property, real or personal.

All such qualifications and requirements shall be fully complied with by any prospective candidate for the position of Mayor or Commission at the time of filing for election. Any Mayor or Commissioner of the City who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office and any such contracts in which any officer or employee is or may become interested may be declared void by the Commission. No elected official shall otherwise accept any service, or anything of value, directly or indirectly, from any entity, upon terms more favorable than are granted to the public. All members present at Commission meetings shall vote "Yes" or "No" on all matters requiring a vote before such Commission; provided, however, any Commissioner having a conflict of interest regarding the matter or matters upon which a vote is to be taken shall abstain from voting and abstain from any discussion on such matter.

4. Change Section 12-Meeting of the Commission in Article V from 7:30 to 5:30 to read:

**Section 12. - Meeting of the Commission.**

On the first Thursday at ~~5 7:30 o'clock~~ 5:30 P.M., after the election of the Commission has been declared, the Commission shall meet in the City Hall, at which time the Commissioners shall qualify and assume the duties of their offices. Thereafter, the Commissioners shall meet at such times as may be prescribed by ordinance, resolution or motion, but they shall meet at least once every month. Any two of the five members of the Commission may call special meetings of the Commission at any time deemed advisable. All meetings of the Commission shall be public, except such executive sessions as may be provided for by ordinance or resolution, and any citizen shall have access to the minutes of and records thereof, at all reasonable times. The Commission shall determine its own rules of order of business, and shall keep journal of its proceedings.

5. Change Section 17-Ordinances, Publication of, in Article V to read:

**Section 17. - Ordinances; publication of.**

All ordinances, other than emergency measures, shall be published once a week for two (2) consecutive weeks, in some newspaper publicly circulated ~~published~~ in Kingsville, and no ordinances shall become effective, until ten (10) days after the date of its last publication. Such ordinances may be published by descriptive caption, with such adoption briefly describing the purpose and penalties of said ordinance

# **AGENDA ITEM #18**

ORDINANCE NO.2020-\_\_\_\_\_

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER VII, ARTICLE 6, TRAFFIC CONTROL DEVICES; PROVIDING FOR A UNIVERSITY RESIDENTIAL PARKING DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

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

I.

THAT Schedule II of Article 6: Parking Schedules of Chapter VII, Traffic Code, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

**Sec. 7-6-2. Schedule II, Parking Restricted on Certain Streets.**

SCHEDULE II. PARKING RESTRICTED ON CERTAIN STREETS.

It shall hereafter be unlawful for any person to park or leave standing any vehicle on the following streets:

...

**Sec. 7-6-3 University Residential Parking District.**

- (A) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- a. Director of Planning & Development Services means the Director of Planning & Development Services for the City of Kingsville, Texas, or his/her designee.
  - b. University Residential Parking District means the area comprised of the following public streets and all residential lots abutting or immediately adjacent to said streets: Richard Ave. from Armstrong to Wells; Ella Ave. from Armstrong to Wells; Nettie Ave. from Armstrong to Wells; Avenue C from Armstrong to Wells; Avenue D from Armstrong to Wells; Mesquite from Armstrong to Wells; Avenue A from Armstrong to 300 feet east of Armstrong; and Avenue B from Armstrong to 300 feet east of Armstrong.
  - c. Motor vehicle means every vehicle which is self-propelled.
- (B) Offenses.
- a. No person shall park any motor vehicle on any public street in the University Residential Parking District during the hours restricted for

that street, without displaying a valid residential parking district permit or a valid temporary visitor's permit.

- b. An individual commits an offense if he displays a permit issued pursuant to this section on a motor vehicle other than the motor vehicle for which the permit was issued.
- c. A person commits an offense if he falsely represents himself as being eligible for a residential parking district permit or a temporary visitor's permit, submits false documents, or otherwise makes a false statement of material fact on an application for a permit.

**(C) Penalties.**

- a. Any vehicle parked in a residential parking district, during times when parking is restricted and without displaying a valid permit issued under this section, may be issued a citation or be subject to immediate towing and impoundment.
- b. A person who commits any other violation against the provisions of this section is subject to the penalties provided for in Section 1-1-99.

**(D) Exceptions.**

- a. Motor vehicles that are parked in a driveway, parking lot, or other authorized and appropriate area designed for parking motor vehicles;
- b. Motor vehicles that are stopped temporarily while the operator or a passenger is making deliveries to a location within the residential parking district;
- c. Motor vehicles that are used in transporting individuals, equipment, and goods necessary for making improvements and repairs, providing labor, and performing other services at a location within the residential parking district;
- d. Motor vehicles that are stopped temporarily for loading or unloading passengers or goods; or
- e. Motor vehicles that are stopped temporarily for necessary emergency repairs.

**(E) Residential Parking District Permits.**

- a. All residents of a designated residential parking district who register with the director of the department of Planning & Development Services, or his/her designee, shall be issued, free of charge, one permit for the residence (for a vehicle owned and kept by the resident at the premises located within the residential parking district). The residential parking permits must be placed in the front windshield of the motor vehicle.
- b. Each permit issued to a resident will be assigned to a specific vehicle, and will only be valid for the particular vehicle to which it is assigned. No permit may be transferred to any other individual or used for a different vehicle other than the one to which the permit is assigned.

- c. All residents applying for a permit or permits must use the application developed by the Director of Planning & Development Services.
- d. The director, shall upon receiving a completed application, issue a residential parking district permit to any individual that is eligible for the permit. An individual is eligible to obtain a permit if the individual:
  - i. Owns a motor vehicle
  - ii. Resides within the residential parking district; and
  - iii. Has no outstanding parking citations issued by the City.
- e. The individual's application for a permit must contain the following information:
  - i. The name, address, and Texas Driver's License Number of the owner of the motor vehicle to be parked in the residential parking district;
  - ii. The make, model, registration, and license plate number of the motor vehicle to be parked in the residential parking district; and
  - iii. Any other information the Director of Development Services determines to be necessary to the enforcement and administration of the terms of this section.
- f. The applicant for a permit must submit the following information at the time application is made for a residential parking district permit:
  - i. A valid Texas Motor Vehicle Registration for the motor vehicle which is the subject of the permit application; and
  - ii. A valid Texas Driver's License of the applicant showing the applicant's current home address, or a residential utility bill acceptable to the Director of Planning & Development Services showing the applicant's home address.

(F) Temporary Visitor Parking District Permits.

- a. Temporary visitor permits shall be issued, free of charge, for persons visiting in the area, at the written request of any person living within the University Residential Parking District. These temporary visitor permits shall be valid only on the date noted on the permit.
- b. No more than two temporary visitor permits shall be issued per day per residence.

(G) Miscellaneous.

- a. When a motor vehicle is parked in a residential parking district during times when parking is restricted, the permit must be conspicuously displayed in the front windshield of the motor vehicle.
- b. A permit issued pursuant to this section, and properly displayed, authorizes the permittee's vehicle to be parked in a residential parking district when otherwise prohibited by this section. A permit does not authorize the permittee's motor vehicle to be parked in a

manner or location that is prohibited or otherwise governed by regulations, ordinances, statutes, or laws other than provided for in this section.

- c. A permit is not transferable from one motor vehicle to another.
- d. A lost or stolen permit may be replaced. The permittee must submit a signed affidavit stating that the permit was lost or stolen and not transferred to another vehicle, nor given or conveyed to another individual.

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 13th day of January, 2020.

**PASSED AND APPROVED** on this the 27th day of January, 2020.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #19**

# **AGENDA ITEM #20**

**City of Kingsville  
Engineering Dept.**

TO: Mayor and City Commissioners

CC: Mark McLaughlin, City Manager

FROM: Rutilio P. Mora Jr, P.E., City Engineer

DATE: January 13, 2020

SUBJECT: Consider approving a Quit Claim Deed of City Easements to TxDOT in an amount to be determined by the City Commission.

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**Summary:**

The City has three easements that are now inside the TxDOT R.O.W. due to the acquisition by the State for additional R.O.W. for improvements to US77 on the south side of town.

The City acquired the 20-foot-wide easement to install utility lines on property from landowners. The first easement is approximately 600 feet south of the intersection of Trant Road and US 77 on the eastside. 70 feet of a 12-inch wastewater line was installed in the easement obtained in 1983 by the City. TxDOT expanded their east R.O.W. line 60' and obtained the land in 2015. The City paid \$5,588.80 to the landowner for the easement.

Next, the City acquired the second 20-foot-wide easement was used to install an 8-inch wastewater force main and 12-inch waterline. The easement is located approximately 1600 feet south of the intersection of South Creek and US 77 on the westside. This easement was obtained in 1984 by the City. TxDOT expanded their R.O.W. and obtained the land in 2015. The City provided the Owner an 8-inch tap as compensation for the easement. A 12" x 8" water tap cost would be approximately \$3,500.00

Finally, the City acquired the third 20-foot-wide easement was used to continued installing an 8-inch wastewater force main and 12-inch waterline. The easement is located approximately 2700 feet south of the intersection of South Creek and US 77 on the westside. This easement was obtained in 1984 by the City. TxDOT expanded their R.O.W. and obtained the land in 2015. The City provided the Owner an 8-inch tap as compensation for the easement. A 12" x 8" water tap cost would be approximately \$3,500.00



**City of Kingsville  
Engineering Dept.**

The three City easements combined total approximately 1.73 acres. Based on the property value of the land, the current minimum value of the land is approximately as follows:

Easement 1 \$424.77/ac

Easement 2 \$212.50/ac

Easement 3 \$425.05/ac

These easements can be transferred from one person/entity to another using a deed otherwise known as a quit claim deed. This process would reduce costs by eliminating surveying costs.

**Financial Impact:**

Accept \$ (amount to be determined) from the State for the three City utility easements.

**Recommendation:**

Staff would recommend asking no less than \$5,000/ac for 1.73 acres for a total value of \$8,650.

**Attachments:**

Utility Easement Map

Easement 1 Vol 443 PG 18-21

Easement 2 Vol 459 PG 98-101

Easement 3 Vol 459 PG 106-109

Project Cost Estimate – 12" x 8" Water Tap

Chapter 8 – Procedure for Utility Adjustments



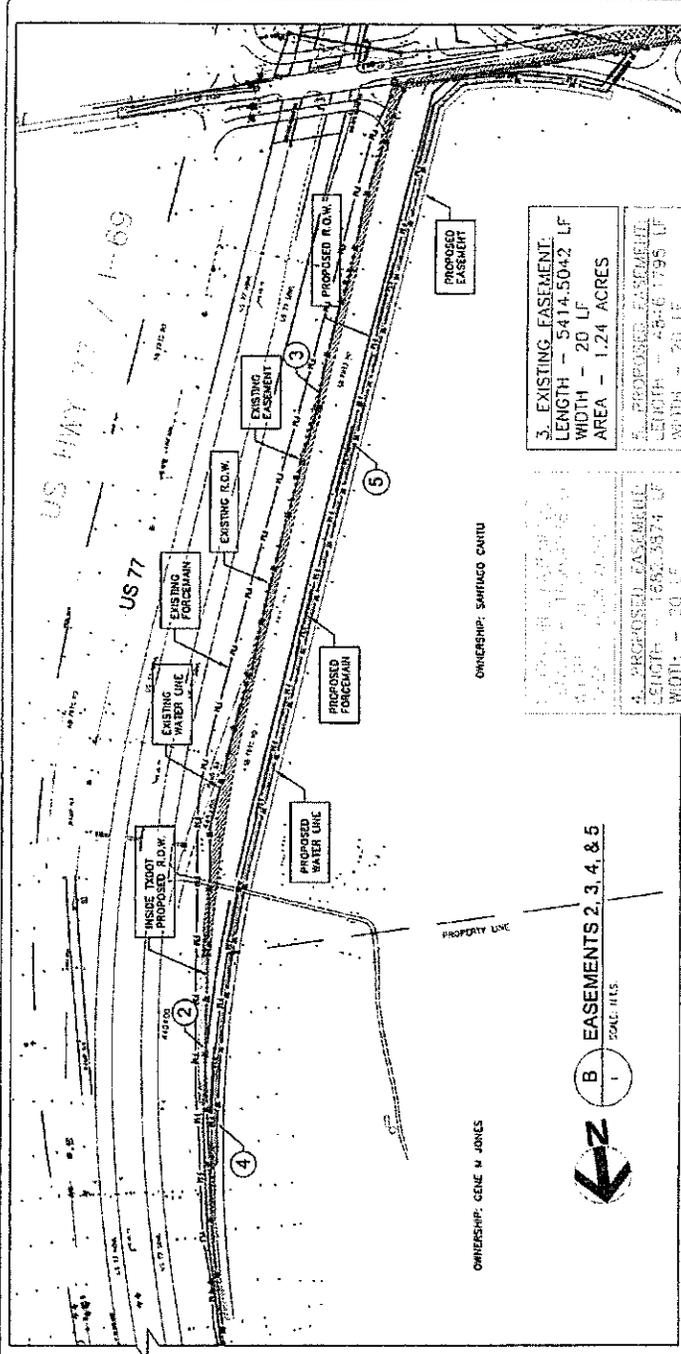
CITY OF KINGSVILLE  
ENGINEERING DEPARTMENT  
401 West King  
Kingsville, Texas 77807  
Fax: 361.508.8035



Drawn by: J. RAMIREZ  
Date: 12/19/2018  
Checked by: R. MORAN  
Job:

**UTILITY EASEMENT MAP**  
**US 77 OVERPASS UTILITIES RELOCATION**

SHEET 1



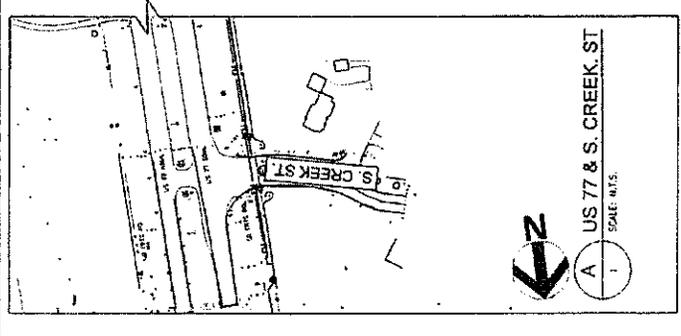
**3. EXISTING EASEMENT:**  
LENGTH - 5414.5042 LF  
WIDTH - 20 LF  
AREA - 1.24 ACRES

**4. PROPOSED EASEMENT:**  
LENGTH - 4846.7795 LF  
WIDTH - 20 LF  
AREA - 1.11 ACRES

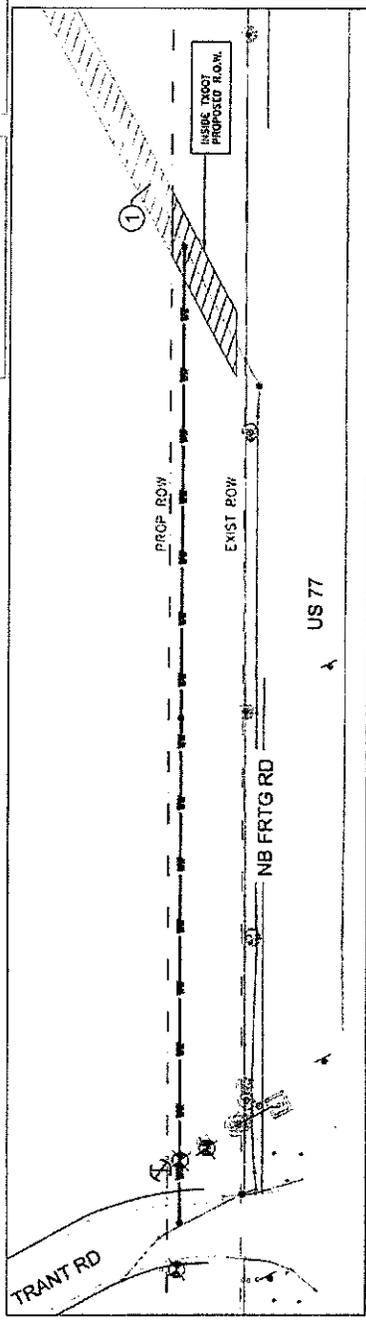
OWNERSHIP: SARRICO CIVIL

OWNERSHIP: GENE M. JONES

**B** EASEMENTS 2, 3, 4, & 5  
SCALE: 1/16"



**A** US 77 & S. CREEK ST  
SCALE: N.T.S.



**1. EXISTING EASEMENT:**  
LENGTH - 497.8746 LF  
WIDTH - 20 LF  
AREA - 0.11 ACRES

**B** EASEMENT 1: TRANT RD. TO US 77  
SCALE: 1/16"

(7)

VOL 443 PAGE 18

CITY OF KINGSVILLE

Project 83-30

EASEMENT AGREEMENT

THE STATE OF TEXAS        I  
                                  I                    KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF KLEBERG        I

THAT W. E. Cumberland and wife, Irene Mary Cumberland  
of the County of Kleberg, State of Texas (hereinafter referred to  
as the "Grantor"), for and in consideration of the sum of \_\_\_\_\_  
Five thousand, five hundred eighty-eight and 80/100 ----- Dollars  
(\$ 5,588.80) to (me) (us) (~~it~~) in hand paid by THE CITY OF  
KINGSVILLE (hereinafter referred to as the "Grantee"), a home rule,  
municipal corporation and body politic existing by virtue of the laws  
of the State of Texas, whose address is P. O. Box 1458, Kingsville,  
Kleberg County, Texas, the receipt and sufficiency of which is hereby  
acknowledged, has granted and conveyed and by these presents does  
grant and convey unto the Grantee, its successors, assigns and legal  
representatives the unlimited, free and uninterrupted use, liberty,  
privilege, right-of-way and easement for the purpose of laying, con-  
structing, inspecting, maintaining, altering, operating, replacing  
and removing a pipeline or line with necessary fittings, appliances  
and other appurtenances incidental thereto, for the transportation  
of raw and treated water and sewage, for municipal, domestic, agri-  
cultural, industrial or any other useful purposes, which right-of-way  
and easement shall be of a width of Twenty feet  
(20) in, on, upon, over, along, across, under and through a  
certain tract of land situated in Kleberg County, Texas, and being  
described as follows:

All of that certain parcel or tract of land being  
more particularly described in Exhibit "A" attached  
hereto and made a part hereof for all purposes;

Together with a temporary construction easement  
located alongside of and adjacent to the above  
described right-of-way and easement to be used  
for working room, stockpiling and storage of  
materials and equipment, constructing, assembling  
and stringing of pipe, and operating construction  
machinery equipment in constructing a pipeline for

the transportation of water. Said temporary construction easement shall be terminated upon the final completion of all construction of said water pipeline, and upon said completion, the Grantee agrees to provide a letter of release of the temporary construction easement, if requested by the Grantor.

A description of the temporary construction easement is shown on Exhibit "B" and made a part hereof for all purposes.

There is included in this grant and conveyance the right of the Grantee, from time to time, to lay, construct, inspect, maintain, alter, operate, replace and remove additional pipelines or lines for the purposes herein set forth, provided, however, such additional pipelines or lines shall be subject to the same rights, privileges and conditions as herein provided.

The Grantee shall have all other rights and benefits necessary or convenient for the full enjoyment or use of the rights herein granted, including but without limiting the same to, the free and full right of ingress or egress on, over, across, to and from said right-of-way and easement, the right from time to time to remove all obstructions that may injure, endanger or interfere with the maintaining, servicing, repairing, constructing, removing and inspecting any pipeline or line and the granting of use of said right-of-way, as may be required, to franchisees of Grantee.

The Grantee accepts this grant and conveyance with the understanding that the Grantor, (his) (her) (their) (its) heirs, legal representatives, successors and assigns, after completion of the construction as above mentioned, shall not be restricted with respect to the use of the surface of the above described property, provided, however, that no building, permanent structure (which term shall not include railroad tracks, road surfacing, culverts, gutters, parking lots and sidewalks), land fill or dumpsite may be created thereon by the Grantor, (his) (her) (their) (its) heirs, legal representatives, successors and assigns.

All ditching shall be double ditched and all surfaces returned to present condition.

To have and to hold said right-of-way and easement, unto the said Grantee, its successors, assigns and legal representatives, so long as the rights, privileges and easements herein granted and conveyed, or any of them shall be used by, or be useful to the Grantee, its successors, assigns and legal representatives for the purposes herein granted; and the Grantor hereby bind(s) (himself) (herself) (themselves) (itself), (his) (her) (their) (its) heirs, legal representatives, successors and assigns to warrant and forever defend all and singular said right-of-way and easement unto the said Grantee, its successors, assigns and legal representatives against every person whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, this Easement Agreement is executed on this 25th day of October, 1983, at Kingsville, Texas

W. E. Cumberland

Irene Mary Cumberland  
Irene Mary Cumberland

Accepted by the City of Kingsville, a home-rule, municipal corporation and body politic existing by and under the laws of the State of Texas, this 31st day of October, 1983, pursuant to motion duly made, seconded and adopted by the City Commission of the City of Kingsville.

THE CITY OF KINGSVILLE

BY: [Signature]  
Mayor

ATTEST:  
[Signature]  
City Secretary

|                   |  |                      |                      |
|-------------------|--|----------------------|----------------------|
| STATE OF TEXAS    |  | FOR                  | : CITY OF KINGSVILLE |
| COUNTY OF KLEBERG |  | 20' UTILITY EASEMENT |                      |

Exhibit "A"

FIELD NOTES for a 20' Utility Easement being out of Lots 11 and 14, Section 22, of the Kleberg Town and Improvement Company Sub-division, a map of which is recorded in Volume 1, Page 34 of the Map Records of Kleberg County, Texas and said 20' utility ease-ment being more particularly described by metes and bounds as follows:

BEGINNING at a point in the North line of a 60' unopened road (Escondido Road) for the S.E. corner of Lot 13, and the S.W. corner of Lot 14, Section 22 of said Kleberg Town and Improvement Company Subdivision and for the S.W. corner of this 20' utility easement;

THENCE North 0°57' West along a common line between Lots 13 and 14, and 11 and 12, a distance of 2305.48 feet more or less to a point in the East right-of-way line of U. S. 77 for a corner of this 20 foot utility easement;

THENCE North 27° 44 East, with the East right of way line of U. S. 77, a distance of 41.67 feet to a point in said right-of-way for a corner of said 20 foot utility easement;

THENCE South 0°57' East parallel to and 20 feet East from the West line of Lots 11 and 14, a distance 2,342.04 feet more or less to a point in the North line of said Escondido Road and the South line of said Lot 14, Section 22, for the Southeast corner of said 20 foot utility easement;

THENCE South 89°03' West along the North line of said Escondido Road, and the South line of said Lot 14, a distance of 20' to the PLACE OF BEGINNING and containing 1.3425 acres of land.

Kleberg CAD

Property Search > 21463 NEWMAN BEVERLY for Year 2019 Tax Year: 2019

Property

**Account**

Property ID: 21463 Legal Description: K T & I CO, BLOCK 22, LOT PT 11, ACRES 9.299  
 Geographic ID: 290002211100192 Zoning:  
 Type: Real Agent Code:  
 Property Use Code:  
 Property Use Description:

**Location**

Address: Mapsco:  
 Neighborhood: Map ID: B2  
 Neighborhood CD:

**Owner**

Name: NEWMAN BEVERLY Owner ID: 63447  
 Mailing Address: ETAL % Ownership: 100.0000000000%  
 1607 MORSE ST  
 HOUSTON, TX 77019  
 Exemptions:

Values

|                                       |   |           |                       |
|---------------------------------------|---|-----------|-----------------------|
| (+) Improvement Homesite Value:       | + | \$0       |                       |
| (+) Improvement Non-Homesite Value:   | + | \$0       |                       |
| (+) Land Homesite Value:              | + | \$0       |                       |
| (+) Land Non-Homesite Value:          | + | \$0       | Ag / Timber Use Value |
| (+) Agricultural Market Valuation:    | + | \$133,650 | \$3,950               |
| (+) Timber Market Valuation:          | + | \$0       | \$0                   |
| <hr/>                                 |   |           |                       |
| (=) Market Value:                     | = | \$133,650 |                       |
| (-) Ag or Timber Use Value Reduction: | - | \$129,700 |                       |
| <hr/>                                 |   |           |                       |
| (=) Appraised Value:                  | = | \$3,950   |                       |
| (-) HS Cap:                           | - | \$0       |                       |
| <hr/>                                 |   |           |                       |
| (=) Assessed Value:                   | = | \$3,950   |                       |

Taxing Jurisdiction

Owner: NEWMAN BEVERLY  
 % Ownership: 100.0000000000%  
 Total Value: \$133,650

| Entity | Description                       | Tax Rate | Appraised Value | Taxable Value | Estimated Tax |
|--------|-----------------------------------|----------|-----------------|---------------|---------------|
| CAD    | KLEBERG COUNTY APPRAISAL DISTRICT | 0.000000 | \$3,950         | \$3,950       | \$0.00        |
| CKI    | CITY OF KINGSVILLE                | 0.853040 | \$3,950         | \$3,950       | \$33.70       |
| GKL    | KLEBERG COUNTY                    | 0.769500 | \$3,950         | \$3,950       | \$30.39       |
| SKI    | KINGSVILLE I.S.D.                 | 1.518900 | \$3,950         | \$3,950       | \$60.00       |
| WST    | SOUTH TEXAS WATER AUTHORITY       | 0.086911 | \$3,950         | \$3,950       | \$3.44        |

# Easement 2

VRL 459 PAGE 98

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville

A 20' Utility Easement  
(0.4946 Acres)

PARCEL PA-2-P

FIELD NOTES for a 20' Utility Easement here designated Parcel PA-2-P and being out of Farm Lot 1, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas, also being out of a 50.95 acre tract known as Tract 9 and allotted to Kenneth A. Huff in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas and said 20' Utility Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the West R.O.W. line of U. S. Highway 77 Bypass at the intersection of the South R.O.W. of a 60' Unopened County Road for the N.E. corner of Farm Lot 1, Block 33 and for the N.E. corner of this 20' Utility Easement;

THENCE, S-00°-41'-33"-E, along the West line of U. S. Highway 77 Bypass, a distance of 45.73' to a point of curvature of this 20' Utility Easement;

THENCE, along the West line of U. S. Highway 77 Bypass along a curve to the right having a Delta Angle of 16°-06'-40", Radius of 3668.09', Tangent of 519.15', for an arc distance of 1031.44' to a point for the S.W. corner of said 50.95 acre tract and for the S.E. corner of this 20' Utility Easement;

THENCE, S-89°-19'-00"-W, along the South line of said 50.95' acre tract, a distance of 20.82' to a point for the S.W. corner of this 20' Utility Easement;

THENCE, in a Northeasterly direction parallel to and 20' West of the West line of U. S. Highway 77 Bypass along a curve to the left having a Delta Angle of 16°-12'-07", Radius of 3648.09', Tangent of 519.26' for an arc distance of 1031.59' to a point of Tangency of this 20' Utility Easement;

THENCE, N-00°-41'-33"-W, parallel to and 20' West of the West line of U. S. Highway 77 Bypass, a distance of 45.73' to a point in the South R.O.W. line of said 60' Unopened County Road and the North line of Farm Lot 1, Block 33 for the N.W. corner of this 20' Utility Easement;

THENCE, N-89°-19'-00"-E, along the South line of said 60' Unopened County Road and the North line of Farm Lot 1, Block 33, a distance of 20.00' to the PLACE OF BEGINNING and containing 0.4946 acre of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984

Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.



EXHIBIT "A"

# Easement 2

VOL 459 PAGE 99

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 60' Construction Easement  
(1.4842 Acres)

PARCEL PA-2-C

FIELD NOTES for a 60' Construction Easement here designated Parcel PA-2-C and being out of Farm Lot 1, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.95 acre tract known as Tract 9 and allotted to Kenneth A. Huff in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 at seq of the Deed Records of Kleberg County, Texas and said 60' Construction Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the South line of a 60' Unopened County Road, the North line of Farm Lot 1, Block 33 for the N.W. corner of a 20' Utility Easement designated as Parcel PA-2-P for the N.E. corner of this 60' Construction Easement and from whence the N.E. corner of Farm Lot 1, Block 33 in the West R.O.W. line of U. S. Highway 77 Bypass bears N-89°-19'-00"-E, 20.00';

THENCE, S-00°-41'-33"-E, along the West line of said 20' Utility Easement, a distance of 45.73' to a point of curvature of this 60' Construction Easement;

THENCE, along the West line of said 20' Utility Easement along a curve to the right having a Delta Angle of 16°-12'-07", Radius of 3648.09', Tangent of 519.26', for an arc distance of 1031.59' to a point for the S.W. corner of said 20' Utility Easement and the S.E. corner of this 60' Construction Easement;

THENCE, S-89°-19'-00"-W, a distance of 62.52' to a point for the S.W. corner of this 60' Construction Easement;

THENCE, parallel to and 60' West of the West line of said 20' Utility Easement along a curve to the left having a Delta Angle of 16°-28'-49", Radius of 3588.09', Tangent of 519.62', for an arc distance of 1032.06' to a point of Tangency of this 60' Construction Easement;

THENCE, N-00°-41'-33"-W, parallel to and 60' West of the West line of said 20' Utility Easement, a distance of 45.73' to a point in the South R.O.W. line of a 60' Unopened County Road and the North line of Farm Lot 1, Block 33 for the N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, along the South line of a 60' Unopened County Road, a distance of 60.00' to the PLACE OF BEGINNING and containing 1.4842 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23 1984 Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.



EXHIBIT "B"

EXHIBIT "C"

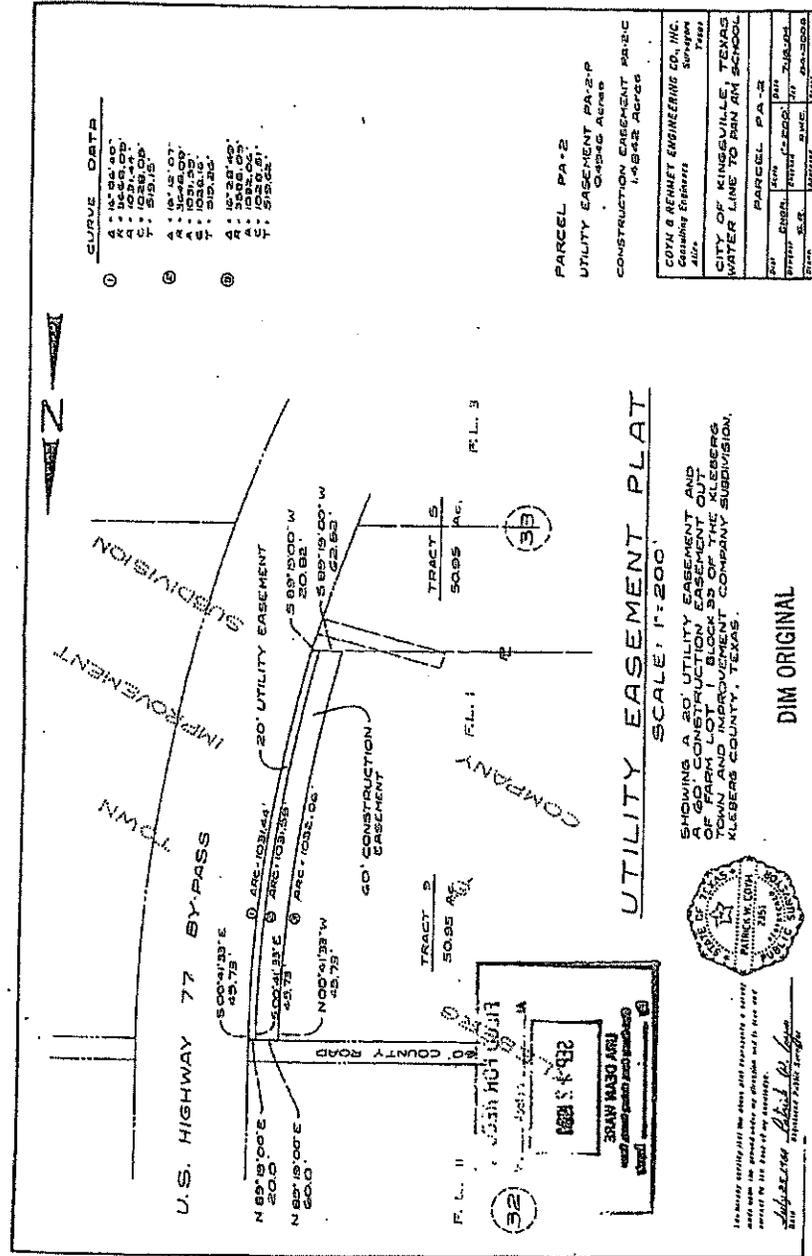
The consideration for the above easement shall be as follows:

The CITY OF KINGSVILLE hereby agrees to place an 8" tap at the Northeast corner of said tract and to allow the said KENNETH HUFF the privilege of tapping on and purchasing water to serve lands owned by him, his brother, LEONARD HUFF, and his sister, DOROTHY HAPPEY, at the normal and customary rates for residents of the CITY OF KINGSVILLE.

This privilege shall extend to the said KENNETH HUFF, his heirs and assigns forever.

# Easement 2

VRL 459 PAGE 101



Kleberg CAD

Property Search > 20124 JONES GENE M for Year 2019

Tax Year: 2019

Property

**Account**

Property ID: 20124 Legal Description: K T & I CO, BLOCK 33, LOT N PT 1 & PT 2, 50% UNDIVIDED INTEREST, (DAC: 25.475), ACRES 50.112  
 Geographic ID: 290003301101119 Zoning:  
 Type: Real Agent Code:  
 Property Use Code:  
 Property Use Description:

**Location**

Address: S HWY 77 Mapsco:  
 TX  
 Neighborhood: Map ID: A4  
 Neighborhood CD:

**Owner**

Name: JONES GENE M Owner ID: 10849  
 Mailing Address: PO DRAWER A % Ownership: 50.0000000000%  
 KINGSVILLE, TX 78364-1603  
 Exemptions:

Values

|                                       |   |          |                       |
|---------------------------------------|---|----------|-----------------------|
| (+) Improvement Homesite Value:       | + | \$0      |                       |
| (+) Improvement Non-Homesite Value:   | + | \$0      |                       |
| (+) Land Homesite Value:              | + | \$0      |                       |
| (+) Land Non-Homesite Value:          | + | \$0      | Ag / Timber Use Value |
| (+) Agricultural Market Valuation:    | + | \$75,170 | \$10,650              |
| (+) Timber Market Valuation:          | + | \$0      | \$0                   |
| <hr/>                                 |   |          |                       |
| (=) Market Value:                     | = | \$75,170 |                       |
| (-) Ag or Timber Use Value Reduction: | - | \$64,520 |                       |
| <hr/>                                 |   |          |                       |
| (=) Appraised Value:                  | = | \$10,650 |                       |
| (-) HS Cap:                           | - | \$0      |                       |
| <hr/>                                 |   |          |                       |
| (=) Assessed Value:                   | = | \$10,650 |                       |

Taxing Jurisdiction

Owner: JONES GENE M  
 % Ownership: 50.0000000000%  
 Total Value: \$75,170

| Entity          | Description                       | Tax Rate | Appraised Value | Taxable Value | Estimated Tax |
|-----------------|-----------------------------------|----------|-----------------|---------------|---------------|
| CAD             | KLEBERG COUNTY APPRAISAL DISTRICT | 0.000000 | \$10,650        | \$10,650      | \$0.00        |
| GKL             | KLEBERG COUNTY                    | 0.769500 | \$10,650        | \$10,650      | \$81.95       |
| SRC             | RICARDO I.S.D.                    | 1.068350 | \$10,650        | \$10,650      | \$113.78      |
| WST             | SOUTH TEXAS WATER AUTHORITY       | 0.086911 | \$10,650        | \$10,650      | \$9.25        |
| Total Tax Rate: |                                   | 1.924761 |                 |               |               |

# Easement 3

VOL 459 PAGE 106

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 20' Utility Easement  
(1.1347 Acres)

PARCEL PA-3-P

FIELD NOTES for a 20' Utility Easement here designated Parcel PA-3-P and being out of Farm Lots 1 and 3, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.95 acre tract known as Tract 5 allotted to Leonard L. Huff Jr. in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas said 20' Utility Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the West R.O.W. line of a U. S. Highway 77 Bypass for the N.E. corner of said 50.95 acre tract known as Tract 5, S.E. corner of a 20' Utility Easement known as Parcel PA-2-P and for the N.E. corner of this 20' Utility Easement;

THENCE, along the West R.O.W. line of U.S. Highway 77 Bypass along a curve to the right having a Delta Angle of  $60^{\circ}-34'-53''$ , Radius of 3668.09', Tangent of 210.91', for an arc distance of 421.35' to a point of Tangency of this 20' Utility Easement;

THENCE, S-22 $^{\circ}$ -00'-00"-W, along the West R.O.W. line of U. S. Highway 77 Bypass, a distance of 1406.55' to a point of intersection of the West R.O.W. line of U. S. Highway 77 Bypass in the North R.O.W. line of a 60' County Road for the S.E. corner of this 20' Utility Easement;

THENCE, S-89 $^{\circ}$ -19'-00"-W, along the North R.O.W. line of said 60' County Road and the South line of Farm Lot 3, Block 33, a distance of 648.20' to a point in the West R.O.W. line of State Loop 428 for the S.W. corner of this 20' Utility Easement;

THENCE, N-52 $^{\circ}$ -07'-22"-W, along the East R.O.W. line of State Loop 428, a distance of 32.09' to a point for the most Southerly N.W. corner of this 20' Utility Easement;

THENCE, N-89 $^{\circ}$ -19'-00"-E, parallel to and 20' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 33, a distance of 659.97' for an inner corner of this 20' Utility Easement;

THENCE, N-22 $^{\circ}$ -00'-00"-E, parallel to and 20' West of the West line of U. S. Highway 77 Bypass, a distance of 1393.24' to a point of curvature of this 20' Utility Easement;

THENCE, along a curve to the left having a Delta Angle of  $60^{\circ}-29'-27''$ , Radius of 3648.09', Tangent of 206.86', for an arc distance of 413.27' to a point for the S.W. corner of said 20' Utility Easement known as Parcel PA-2-P and the N.W. corner of this 20' Utility Easement;

THENCE, N-89 $^{\circ}$ -19'-00"-E, along the North line of said 50.95 acre tract, a distance of 20.82' to the PLACE OF BEGINNING and containing 1.1347 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984

Signed: *P. W. Coym*

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.

EXHIBIT "A"



# Easement 3

VOL 459 PAGE 107

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 60' Construction Easement  
(3.3775 Acres)

PARCEL PA-3-C

FIELD NOTES for a 60' Construction Easement here designated Parcel PA 3-C and being out of Farm Lots 1 and 3, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.9 acre tract known as Tract 5 allotted to Leonard L. Huff Jr. in Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas and said 60' Construction Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the North line of said 50.95 acre tract from the N.W. corner of a 20' Utility Easement known as Parcel PA-3-P at the N.E. corner of this 60' Construction Easement and from whence the N.E. corner of said 50.95 acre tract in the West R.O.W. line of U. S. Highway 77 Bypass bears N-89°-19'-00"-E, 20.82';

THENCE, along the West line of said 20' Utility Easement and along curve to the right having a Delta Angle of 6°-29'-27", Radius of 3648.09', Tangent of 206.86', for an arc distance of 473.27' to point of Tangency of this 60' Construction Easement;

THENCE, S-22°-00'-00"-W, parallel to and 20' West of the West R.O.W. line of U. S. Highway 77 Bypass and along the West line of said 20' Utility Easement, a distance of 1393.24' to a point for the S. corner of this 60' Construction Easement;

THENCE, S-89°-19'-00"-W, parallel to and 20' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 3 a distance of 659.97' to a point in the East R.O.W. line of State Loop 428 for the S.W. corner of this 60' Construction Easement;

THENCE, N-52°-07'-22"-W, along the East R.O.W. line of State Loop 428 a distance of 96.26' to a point for the most Southerly N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, parallel to and 80' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 3 a distance of 695.28' to a point for an inner corner of this 60' Construction Easement;

THENCE, N-22°-00'-00"-E, parallel to and 80' West of the West line of U. S. Highway 77 Bypass, a distance of 1353.28' to a point of curvature of this 60' Construction Easement;

THENCE, parallel to and 80' West of the West R.O.W. line of U. S. Highway 77 Bypass along a curve to the left having a Delta Angle of 6°-12'-44", Radius of 3588.09', Tangent of 194.71', for an arc distance of 369.04' to a point for the N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, along the North line of said 50.95 acre tract a distance of 62.52' to the PLACE OF BEGINNING and containing 3.3775 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984 Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & REHMET ENGINEERING, CO., INC.



EXHIBIT "B"

# Easement 3

vnl 459 PAGE 108

## EXHIBIT "C"

The consideration for the above easement shall be as follows:

The CITY OF KINGSVILLE hereby agrees to place an 8" tap at the Southeast corner of said tract and to allow the said LEONARD HUFF the privilege of tapping on and purchasing water to serve lands owned by him, his brother, KENNETH HUFF, and his sister, DOROTHY HAPPEY, at the normal and customary rates for the residents of the CITY OF KINGSVILLE.

This privilege shall extend to the said LEONARD HUFF, his heirs and assigns forever.



Kleberg CAD

Property Search > 20760 CANTU SANTIAGO for Year 2019 Tax Year: 2019

Property

**Account**

Property ID: 20760 Legal Description: K T & I CO, BLOCK 33, LOT S PT 1 & 2, W PT 3, ACRES 43.524  
 Geographic ID: 290003301102119 Zoning:  
 Type: Real Agent Code:  
 Property Use Code:  
 Property Use Description:

**Location**

Address: Mapsco:  
 Neighborhood: Map ID: A4  
 Neighborhood CD:

**Owner**

Name: CANTU SANTIAGO Owner ID: 49166  
 Mailing Address: PO BOX 197 % Ownership: 100.0000000000%  
 LA BLANCA, TX 78558-0197  
 Exemptions:

Values

|                                       |   |           |                       |
|---------------------------------------|---|-----------|-----------------------|
| (+) Improvement Homesite Value:       | + | \$0       |                       |
| (+) Improvement Non-Homesite Value:   | + | \$0       |                       |
| (+) Land Homesite Value:              | + | \$0       |                       |
| (+) Land Non-Homesite Value:          | + | \$0       | Ag / Timber Use Value |
| (+) Agricultural Market Valuation:    | + | \$141,020 | \$18,500              |
| (+) Timber Market Valuation:          | + | \$0       | \$0                   |
| <hr/>                                 |   |           |                       |
| (=) Market Value:                     | = | \$141,020 |                       |
| (-) Ag or Timber Use Value Reduction: | - | \$122,520 |                       |
| <hr/>                                 |   |           |                       |
| (=) Appraised Value:                  | = | \$18,500  |                       |
| (-) HS Cap:                           | - | \$0       |                       |
| <hr/>                                 |   |           |                       |
| (=) Assessed Value:                   | = | \$18,500  |                       |

Taxing Jurisdiction

Owner: CANTU SANTIAGO  
 % Ownership: 100.0000000000%  
 Total Value: \$141,020

| Entity          | Description                       | Tax Rate | Appraised Value | Taxable Value | Estimated Tax |
|-----------------|-----------------------------------|----------|-----------------|---------------|---------------|
| CAD             | KLEBERG COUNTY APPRAISAL DISTRICT | 0.000000 | \$18,500        | \$18,500      | \$0.00        |
| GKL             | KLEBERG COUNTY                    | 0.769500 | \$18,500        | \$18,500      | \$142.36      |
| SRC             | RICARDO I.S.D.                    | 1.068350 | \$18,500        | \$18,500      | \$197.64      |
| WST             | SOUTH TEXAS WATER AUTHORITY       | 0.086911 | \$18,500        | \$18,500      | \$16.08       |
| Total Tax Rate: |                                   | 1.924761 |                 |               |               |

Taxes w/Current Exemptions: \$356.08

|   |  |                 |   |                            |  |
|---|--|-----------------|---|----------------------------|--|
|  | <b>Project Cost Estimate</b>   |                 | <b>Estimated By</b><br>Marco Jimenez<br><b>Water Dept</b> | <b>Project No.</b><br><br> | <b>Date Prepared</b><br>April 19, 2016 |
|   | <b>Project Location</b><br>Kingsville, Texas<br><b>Project Title</b><br>12" x 8" Tap |                 |   |                            |  |
| <b>Material Estimates</b>   |  | <b>Quantity</b> |   |                            |  |
| <b>Item Description</b>   | <b>Amount</b>  | <b>Unit</b>     | <b>Unit Cost</b>  | <b>Material Cost Total</b> |  |
| 12" x 8" Tapping Sleeve   | 1  | Ea              | \$ 1,297.50   | \$ 1,297.50                |  |
| 8" Gate Valve   | 1  | Ea              | \$ 1,677.18   | \$ 1,677.18                |  |
|   |  |                 | <b>Material Total:</b>                                    | <b>\$ 2,974.68</b>         |  |

|                              |               |                      |                        |
|------------------------------|---------------|----------------------|------------------------|
| <b>Project Cost Estimate</b> |               | <b>Material Cost</b> |                        |
| <b>Item Description</b>      | <b>Amount</b> | <b>Unit</b>          | <b>Unit Cost</b>       |
| 12" x 8" Tapping Sleeve      | 1             | Ea                   | \$ 1,297.50            |
| 8" Gate Valve                | 1             | Ea                   | \$ 1,677.18            |
|                              |               |                      | <b>Material Total:</b> |
|                              |               |                      | <b>\$ 2,974.68</b>     |

|                            |               |                 |                  |                            |  |
|----------------------------|---------------|-----------------|------------------|----------------------------|--|
| <b>Equipment Estimates</b> |               | <b>Quantity</b> |                  |                            |  |
| <b>Item Description</b>    | <b>Amount</b> | <b>Unit/hr</b>  | <b>Unit Cost</b> | <b>Material Cost Total</b> |  |
| Back hoe                   | 4             | hr              | \$ 37.50         | \$ 150.00                  |  |
| Pick Up                    | 4             | hr              | \$ 19.45         | \$ 77.80                   |  |
|                            |               |                 |                  | \$ -                       |  |
|                            |               |                 |                  | \$ -                       |  |
|                            |               |                 |                  | \$ -                       |  |
|                            |               |                 |                  | \$ -                       |  |
|                            |               |                 |                  | \$ -                       |  |
| <b>Equipment Total:</b>    |               |                 |                  | <b>\$ 227.80</b>           |  |

|                                      |                    |  |
|--------------------------------------|--------------------|--|
| <b>Estimated By</b><br>Marco Jimenez | <b>Project No.</b> | <b>Date Prepared</b><br>April 19, 2016 |
| <b>Water Dept</b>                    |                    |  |
| <b>Labor Estimates</b>               | <b>Quantity</b>    | <b>Labor Cost</b>                      |
| <b>Job Description</b>               | <b>Amount</b>      | <b>Unit</b>                            |
| Equip Oper III                       | 4                  | hr                                     |
| Equip Oper II                        | 4                  | hr                                     |
| Utility Worker                       | 4                  | hr                                     |
| Utility Worker                       | 4                  | hr                                     |
|                                      |                    | <b>Labor Total:</b>                    |
|                                      |                    | <b>\$ 199.76</b>                       |

|                              |               |                 |                      |              |
|------------------------------|---------------|-----------------|----------------------|--------------|
| <b>Other Services</b>        |               | <b>Quantity</b> | <b>Material Cost</b> |              |
| <b>Description</b>           | <b>Amount</b> | <b>Unit</b>     | <b>Unit Cost</b>     | <b>Total</b> |
|                              |               | Per             |                      |              |
|                              |               |                 | \$ -                 | \$ -         |
| <b>Other Services Total:</b> |               |                 |                      | \$ -         |

|                       |               |                 |                      |                    |  |
|-----------------------|---------------|-----------------|----------------------|--------------------|--|
| <b>Grand Totals</b>   |               | <b>Quantity</b> | <b>Material Cost</b> |                    |  |
|                       | <b>Amount</b> | <b>Unit</b>     | <b>Unit Cost</b>     | <b>Total</b>       |  |
| Material              |               |                 |                      | \$ 2,974.68        |  |
| Labor                 |               |                 |                      | \$ 199.76          |  |
| Equipment             |               |                 |                      | \$ 227.80          |  |
| Total                 |               |                 |                      | \$ 3,402.24        |  |
|                       |               |                 |                      | \$ -               |  |
| <b>SUB-TOTAL</b>      |               |                 |                      | <b>\$ 3,402.24</b> |  |
| <b>Other Services</b> |               |                 |                      | \$ -               |  |
|                       |               |                 |                      | \$ -               |  |
| <b>Grand Total:</b>   |               |                 |                      | <b>\$ 3,402.24</b> |  |

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## Section 1 — Adjustments

### Eligible Adjustments

When highway right of way encroaches on a utility's right of way, TxDOT will participate with the LPA in the cost of necessary utility adjustment. TxDOT will also participate in the cost associated with utility adjustments when the utilities are located on an Interstate highway project (Federal funding for right of way).

TxDOT's participation in the utility adjustment will be limited to the cost of making the adjustment, after deductions for the following:

- ◆ elective betterments;
- ◆ accrued depreciation;
- ◆ salvage or scrap value; and
- ◆ ineligible costs (e.g., loss of revenue, interest expense, entertainment, allowance for funds during construction (AFUDC)).

### Partially Eligible Adjustments

An adjustment may involve facilities located partially on highway right of way by statutory right (Public) and partially on compensable interests acquired for utility purposes (Private). Eligibility for TxDOT cost participation is determined by compensable interests held by the utility within the limits of the existing and proposed right of way. When this situation exists, an eligibility ratio must be established and approved by the District before or as part of the Utility Agreement.

## Section 2 — Utility Property Ownership

### Public Utility Easement (PUE) Reimbursement Considerations

PUEs are rights obtained by an LPA when property is platted or re-platted for development. Right of way is reserved to accommodate utility access to the development. This right of way is intended for use of all utilities, and therefore conveys a compensable interest to any utility placed within the easement. However, the PUE does not convey a replacement right of way interest to any occupants of the PUE. The Texas 14th Court of Appeals ruled that utilities should be reimbursed for costs directly attributable to work performed in a PUE.

All utilities within a PUE have compensable rights if any portion of the easement were to be incorporated into the proposed right of way limits of a transportation project. The incorporated portion gives the utilities within that portion the right to request TxDOT cost participation in any adjustment to those specific facilities.

In this case, utilities are required to execute a Utility Joint Use Acknowledgement. The utilities located within the easement would be eligible for costs to relocate or adjust their facilities on a one-time basis, and would not be eligible to retain any future compensable rights.

### Acquisition of Right of Way from a Utility Property Owner

If a utility owns fee title to property required for a proposed right of way project, it is TxDOT's preferred practice to acquire fee title to that property. If the facilities or operations of a public utility are affected on the required right of way, the facilities will be eligible for State cost participation. This cost participation will be in accordance with the appropriate Standard Utility Agreement and the Utility Joint Use Acknowledgement.

### Compensation Considerations

A utility easement is a specific right to a legally described parcel of land that has been, or can be, recorded in the Real Property Records of the county.

In some situations, a property interest may not be possessed by a utility, but eligibility for State cost participation may be appropriate to compensate for the required adjustment. Compensation consideration may be appropriate for a railroad license agreement in favor of a utility predating a public right of way, or a joint occupancy agreement between two separate utilities (typically occupying poles) if the primary utility (typically pole owner) holds a property interest.

Occasionally, a utility will occupy, by statutory authority, areas covered by the property rights of another entity. This does not entitle the utility to retain any compensable right or to purchase

replacement rights if acquisition of the area becomes necessary for a transportation project. However, the utility is entitled to reimbursement of a compensable cost to adjust its facilities on a one-time basis.

TxDOT can recognize a local municipality's property interest if TxDOT sees a benefit and local funds are not available.

In addition, to enhancing public relations between local communities and TxDOT, the advantages to this approach are that:

- ◆ minimal documentation would be required under 23CFR 645.103d;
- ◆ any delays or stoppages due to lack of municipal funding would be avoided; and decreases in SIB utility loan requests, non-complying utility accommodations (with attendant legal issues), and contractor claims would be realized.

If questions arise regarding the status of rights claimed by a utility, that utility is responsible for documentation of these rights. TxDOT reviews property rights claimed by the utility to determine if a compensation consideration or a property right exists before making an agreement to adjust the utility's facilities.

For a utility agreement assembly to be a candidate for approval, the utility's compensation consideration must be clearly documented and supported by verifiable evidence, such as a recorded deed, easement, lease or form ROW-U-84 Compensable Interest Certificate. In situations where evidence of property interest is inadequate to support compensability, compensation consideration issues must be resolved before District approval of the utility agreement assembly.

The District may request pre-approval of the compensation consideration claim in writing. The request may include submission of the completed affidavits ROW-U-1A Affidavit (for Utility Owner), ROW-U-1B Affidavit (for Disinterested Party), or ROW-U-1C Affidavit (for Property Owner), as appropriate, to support the property interest claim. ROW Division will review the District request and reply in writing with comments and/or approval.

License agreements with a railroad that document a compensation consideration for a utility must have been executed before the highway facility was constructed. Otherwise, no compensation consideration can be acknowledged.

When municipally owned utilities are located in a city street where no previous adjustment has been performed and later becomes part of the State Highway System, a current project requiring adjustment of those municipally owned utilities may be deemed reimbursable by the State.

### Eligibility Ratio

Eligibility for reimbursement of utility adjustment costs must be clearly identified. The District may seek pre-approval of the eligibility ratio from ROW Division and continue processing the util-

ity agreement assembly for approval. Eligibility issues must be resolved before District approval of the utility agreement assembly.

Scenarios of eligibility, including eligibility ratios, are available in PDF format. The eligibility ratios found on these scenarios are based primarily upon proportional property rights as measured along the centerline of the existing utility facility. When the conflict lies solely within the joint use/acquisition of the utility's property, the eligibility ratio is 100%. Scenarios are available in PDF format. Each example scenario shows the appropriate eligibility ratio.

For example, if it is assumed that the total width of the proposed highway right of way is 300-feet, and 100-feet of the utility's existing facility is presently located on **highway right of way** by statutory right, and 200 feet is presently occupying **utility right of way** (or utility easement), then TxDOT will participate in 67% ( $200'/300'$ ) of the total cost of the required adjustment after deducting any credits due for betterment and salvage.

The key determining factors for eligibility ratio are:

- ◆ **line length for underground pipelines and cables, and**
- ◆ **main line pole location for power and overhead communication facilities. Guy poles, push braces, and down guys must be excluded from the ratio as these items are considered as supporting structures.**

In developing the ratio, line length or number of poles is restricted to facilities located within the existing and proposed highway right of way. Facilities located outside the existing and proposed right of way limits will not be used in developing the ratio. However, the percentage established from the ratio will be applied to all applicable costs necessary for the adjustment.

All applicable adjustment costs will be **ineligible** for TxDOT cost participation when line poles are on highway right of way by statutory right, and guy poles, push braces and/or down guys are on utility-owned right of way. However, TxDOT will participate in **right of way costs** incurred in conjunction with adjustment of the guy poles, push braces, and/or down guys. The basis for developing the ratio for underground pipelines, cables, overhead power and communication facilities is as follows:

Although line lengths for pole line adjustments are not generally used as a basis for determining an eligibility ratio, special conditions (e.g., transmission towers, railroad intersections) may warrant consideration for such handling. When these conditions exist, all factual data must be submitted to the District for determination regarding the appropriate method of handling.

When there are facilities to be removed and not replaced, the establishment of an eligibility ratio must not include these facilities. Utility adjustment charges must be prorated only on those facilities being functionally replaced. For further information see Section 6.

The State's participation must be limited to replacement-in-kind of the utility's property interest, including length, width, and type.

### Calculating the Eligibility Ratio at Railroads

The eligibility ratio in the case of a license agreement between a railroad and a utility is determined by the following formula:

Width of the Existing Highway= 100'

Width of the Proposed Highway= 150'

Therefore, as an example, if the existing highway is 100 feet wide, and the proposed highway is 150 feet wide, then the eligibility ratio would be 33%.

### Composite Eligibility Ratios (CER)

On any given project, there may be multiple utility adjustments at different locations within the highway right of way project limits. When these different locations contain different line sizes and/or eligibility ratios, it will be necessary to calculate a CER. A CER is calculated to mitigate administrative and accounting difficulties encountered with simultaneous work sites having different individual eligibility ratios.

The formula for determining a CER is:

$$X+Y+Z$$

$$A+B+C$$

**Where:**

- ◆  $A$  = Cost of Adjustment of Utility "A"
- ◆  $B$  = Cost of Adjustment of Utility "B"
- ◆  $C$  = Cost of Adjustment of Utility "C"
- ◆  $X$  = "A" times the Eligibility Ratio for Utility "A"
- ◆  $Y$  = "B" times the Eligibility Ratio for Utility "B"
- ◆  $Z$  = "C" times the Eligibility Ratio for Utility "C."

For example:

**Table 8-1: Composite Eligibility Ratio Calculation**

| Facility to be adjusted      | Cost of Adjustment | Individual Eligibility Ratio | X, Y & Z Factors |
|------------------------------|--------------------|------------------------------|------------------|
| City Water Line – Location A | \$20,000           | 100%                         | X = \$20,000     |
| City Sanitary Sewer          | \$10,000           | 50%                          | Y = \$5,000      |
| City Water Line – Location B | \$30,000           | 75%                          | Z = \$22,500     |

Therefore using the above example...

$$20,000 + 5,000 + 22,500 = 47,500$$

$$20,000 + 10,000 + 30,000 = 60,000$$

... the CER for this example would be 79.17%.

**The burden of proof regarding compensable interest lies with the utility company!**

When reviewing and approving the eligibility ratios, the District must consider appropriate affidavits and attachments.

#### For State and LPA

The utility's property interest can be supported either by the appropriate affidavits or ROW-U-84 Compensable Interest Certificate. Affidavits must be completed by the utility and furnished with the required attachments. The applicable form must be a part of the submission to the District in support of the adjustment. Refer to Affidavits for more information on affidavits of property ownership.

After execution of all agreements by the utility and the LPA, submit two copies of each of the following to the District:

- ◆ the executed agreement (SUP only);
- ◆ the previously approved cost estimates;
- ◆ the previously approved plans;
- ◆ all previously approved supporting material.

The submission will be reviewed by the District to verify the following:

- ◆ that the lump sum amount in ROW-U-43A Standard Utility Agreement - Lump Sum - Local Government does not exceed TxDOT's previously approved amount;
- ◆ that the agreement form has been properly prepared and executed; and

- 
- ◆ that control of access line is shown, when applicable.

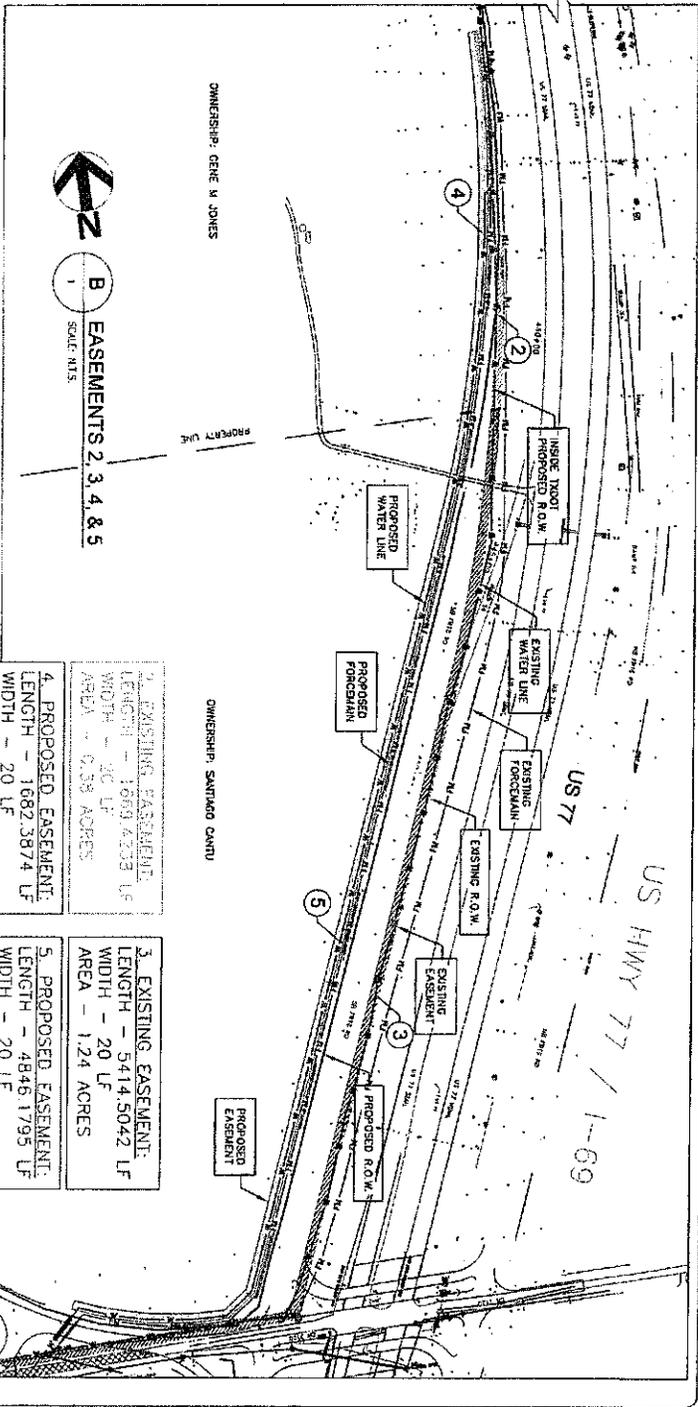
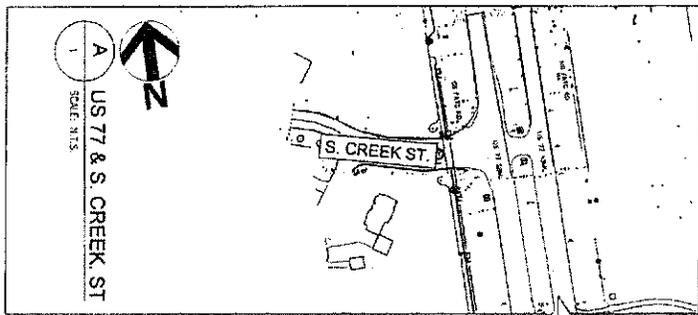
Previously assigned numbers must be placed in the appropriate spaces on the agreement if not done before execution by the utility. Signing of the agreements in the appropriate space will constitute the District Engineer's approval.

Submit all copies of the foregoing materials to the District for review. If the submission is found acceptable, agreements will be processed for TxDOT approval. Approval of the agreements will establish an agreed lump sum amount for the adjustment.

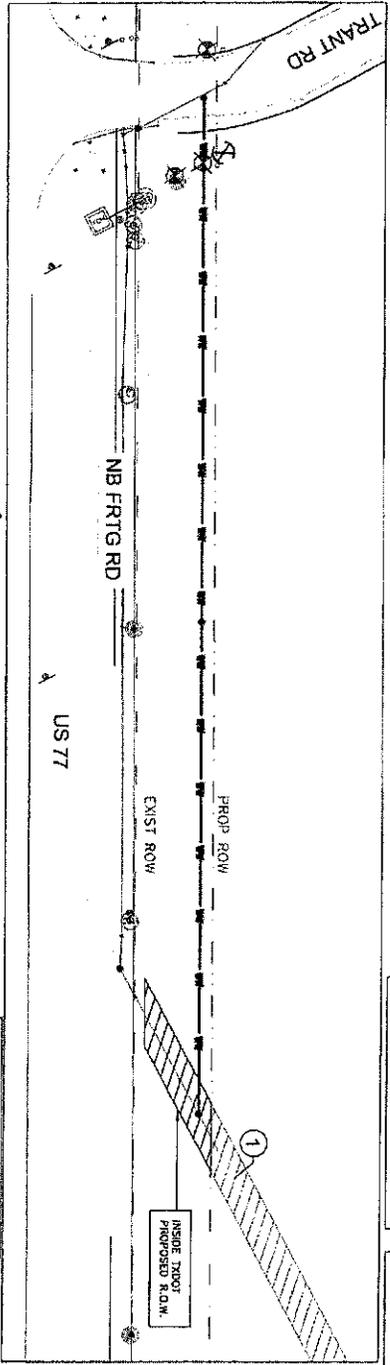
Two originals of the approved agreement and supporting data will be returned to the District by the LPA for proper distribution, when applicable. The District must then forward one original copy of the approved agreement, along with a transmittal letter, to the utility and one original copy to the ROW Program Office for record. The District's letter must advise the LPA of the following:

- ◆ to authorize the utility to proceed with the necessary adjustment
- ◆ that reimbursement in an amount of 90% of the approved lump sum amount in the agreement will be made after:
  - receipt of final bill
  - proper certification that all work has been completed in accordance with the agreement; and
  - proper certification that payment has been made to the utility.

Coordination between the District and the LPA is essential since the desired timing of the adjustments is a TxDOT function. However, notification of utilities in respect to the approval of an agreement is the **LPA's responsibility**.



|  |  |
|--|--|
| <p>2. EXISTING EASEMENT:<br/>LENGTH - 1669.4223 LF<br/>WIDTH - 20 LF<br/>AREA - 0.39 ACRES</p> | <p>3. EXISTING EASEMENT:<br/>LENGTH - 5414.5042 LF<br/>WIDTH - 20 LF<br/>AREA - 1.24 ACRES</p> |
| <p>4. PROPOSED EASEMENT:<br/>LENGTH - 1682.3874 LF<br/>WIDTH - 20 LF<br/>AREA - 0.39 ACRES</p> | <p>5. PROPOSED EASEMENT:<br/>LENGTH - 4845.1795 LF<br/>WIDTH - 20 LF<br/>AREA - 1.11 ACRES</p> |



**UTILITY EASEMENT MAP**  
**US 77 OVERPASS UTILITIES RELOCATION**

EASEMENTS

Drawn by: J. RAMIREZ  
Date: 12/19/2018  
Checked by: R. MORA  
Job:



CITY OF KINGSVILLE  
ENGINEERING DEPARTMENT  
400 West King  
Kingsville, Texas 78363  
Office 361.595.8007  
Fax 361.595.8035

RESOLUTION NO. 2020-\_\_\_\_\_

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THREE UTILITY EASEMENTS NEEDED FOR IMPROVEMENTS TO US 77 FROM GENERAL CAVAZOS BLVD. TO THE SOUTHERN CITY LIMITS.**

**WHEREAS**, the Texas Department of Transportation (TXDOT) is responsible for the design, construction, and operation of a system of highways in cooperation with local governments;

**WHEREAS**, the TXDOT has plans to make improvements to US77 from General Cavazos Blvd. (FM 1356) to the South Y (CR2130), which is the future I-69, and will be modifying the roadway and associated utility easements for such improvements, causing TXDOT to need to acquire three of the City's utility easements for the new TxDOT R.O.W.;

**WHEREAS**, the City is willing to sell the three utility easements to TXDOT for the improvement project via a Quit Claim Deed; and

**WHEREAS**, the City of Kingsville must pass a resolution authorizing the City to sell the three utility easements and execute the Quit Claim Deed with the Texas Department of Transportation for the easements; and

**WHEREAS**, the TXDOT will be responsible for paying the City for the three utility easements being conveyed via the Quit Claim Deed.

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission authorizes the Mayor to execute the Quit Claim Deed to sell and convey the three utility easements to the Texas Department of Transportation needed for certain highway improvements for US77 from General Cavazos Blvd. to the southern city limits, as per the agreement attached hereto.

II.

**THAT** the Mayor, or his designee, is hereby authorized and directed to act on the City's behalf in all matters pertaining to this contract.

III.

**THAT** this Resolution shall become effective upon adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 13th day of January, 2020.

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Sam R. Fugate  
Mayor

**ATTEST:**

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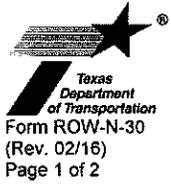
Mary Valenzuela  
City Secretary

**APPROVED AS TO FORM:**

---

Courtney Alvarez  
City Attorney

**Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your Social Security Number or your Driver's License Number.**



NOTE: THIS FORM IS INTENDED SOLELY FOR USE BY THE TEXAS DEPARTMENT OF TRANSPORTATION. USE OF THIS FORM BY PRIVATE PARTIES ATTEMPTING TO QUITCLAIM OR CONVEY PROPERTY MAY RESULT IN THE UNINTENDED CONVEYANCE OF THE GRANTOR'S INTEREST TO THE STATE OF TEXAS.

**QUITCLAIM DEED**

**THE STATE OF TEXAS**

§ **ROW CSJ: 0102-04-100**

**COUNTY OF KLEBERG**

§  
§

**KNOW ALL MEN BY THESE PRESENTS:**

That, The City of Kingsville of the County of Kleberg, State of Texas, hereinafter referred to as Grantors, whether one or more, for and in consideration of the sum of \_\_\_\_\_ Dollars (\$) and other good and valuable consideration to Grantors in hand paid by the State of Texas, acting by and through the Texas Transportation Commission, the receipt of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, have Quitclaimed and do by these presents Bargain, Sell, Release and forever Quitclaim unto the State of Texas all of Grantors' right, title, interest, claim and demand in and to that certain tract or parcel of land, including any improvements thereon, situated in the County of Kleberg, State of Texas, more particularly described in Exhibit "A," attached hereto and incorporated herein for any and all purposes.

**TO HAVE AND TO HOLD** for said purposes together with all and singular the rights, privileges, and appurtenances thereto in any manner belonging unto the said State of Texas forever.

**IN WITNESS WHEREOF**, this instrument is executed on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



---

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**Acknowledgement**

State of Texas  
County of Kleberg

This instrument was acknowledged before me on \_\_\_\_\_

by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public's Signature

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**Corporate Acknowledgment**

State of Texas  
County of Kleberg

This instrument was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

\_\_\_\_\_ , \_\_\_\_\_

of \_\_\_\_\_, a \_\_\_\_\_

corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public's Signature

## **EXHIBIT A**

See the three (3) utility easements attached hereto and numbered as Ex. p.1-12.

(2)

VOL 443 PAGE 18

CITY OF KINGSVILLE

Project 83-30

EASEMENT AGREEMENT

THE STATE OF TEXAS            Y  
  I                   KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF KLEBERG            I

THAT W. E. Cumberland and wife, Irene Mary Cumberland  
of the County of Kleberg, State of Texas (hereinafter referred to  
as the "Grantor"), for and in consideration of the sum of \_\_\_\_\_  
Five thousand, five hundred eighty-eight and 80/100 ----- Dollars  
(\$ 5,588.80 ) to (me) (us) (~~etc~~) in hand paid by THE CITY OF  
KINGSVILLE (hereinafter referred to as the "Grantee"), a home rule,  
municipal corporation and body politic existing by virtue of the laws  
of the State of Texas, whose address is P. O. Box 1458, Kingsville,  
Kleberg County, Texas, the receipt and sufficiency of which is hereby  
acknowledged, has granted and conveyed and by these presents does  
grant and convey unto the Grantee, its successors, assigns and legal  
representatives the unlimited, free and uninterrupted use, liberty,  
privilege, right-of-way and easement for the purpose of laying, con-  
structing, inspecting, maintaining, altering, operating, replacing  
and removing a pipeline or line with necessary fittings, appliances  
and other appurtenances incidental thereto, for the transportation  
of raw and treated water and sewage, for municipal, domestic, agri-  
cultural, industrial or any other useful purposes, which right-of-way  
and easement shall be of a width of Twenty feet  
( 20' ) in, on, upon, over, along, across, under and through a  
certain tract of land situated in Kleberg County, Texas, and being  
described as follows:

All of that certain parcel or tract of land being  
more particularly described in Exhibit "A" attached  
hereto and made a part hereof for all purposes;

Together with a temporary construction easement  
located alongside of and adjacent to the above  
described right-of-way and easement to be used  
for working room, stockpiling and storage of  
materials and equipment, constructing, assembling  
and stringing of pipe, and operating construction  
machinery equipment in constructing a pipeline for

Ex. p.1

the transportation of water. Said temporary construction easement shall be terminated upon the final completion of all construction of said water pipeline, and upon said completion, the Grantee agrees to provide a letter of release of the temporary construction easement, if requested by the Grantor.

A description of the temporary construction easement is shown on Exhibit "B" and made a part hereof for all purposes.

There is included in this grant and conveyance the right of the Grantee, from time to time, to lay, construct, inspect, maintain, alter, operate, replace and remove additional pipelines or lines for the purposes herein set forth, provided, however, such additional pipelines or lines shall be subject to the same rights, privileges and conditions as herein provided.

The Grantee shall have all other rights and benefits necessary or convenient for the full enjoyment or use of the rights herein granted, including but without limiting the same to, the free and full right of ingress or egress on, over, across, to and from said right-of-way and easement, the right from time to time to remove all obstructions that may injure, endanger or interfere with the maintaining, servicing, repairing, constructing, removing and inspecting any pipeline or line and the granting of use of said right-of-way, as may be required, to franchisees of Grantee.

The Grantee accepts this grant and conveyance with the understanding that the Grantor, (his) (her) (their) (its) heirs, legal representatives, successors and assigns, after completion of the construction as above mentioned, shall not be restricted with respect to the use of the surface of the above described property, provided, however, that no building, permanent structure (which term shall not include railroad tracks, road surfacing, culverts, gutters, parking lots and sidewalks), land fill or dumpsite may be created thereon by the Grantor, (his) (her) (their) (its) heirs, legal representatives, successors and assigns.

All ditching shall be double ditched and all surfaces returned to present condition.

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To have and to hold said right-of-way and easement, unto the said Grantee, its successors, assigns and legal representatives, so long as the rights, privileges and easements herein granted and conveyed, or any of them shall be used by, or be useful to the Grantee, its successors, assigns and legal representatives for the purposes herein granted; and the Grantor hereby bind(s) (himself) (herself) (themselves) (itself), (his) (her) (their) (its) heirs, legal representatives, successors and assigns to warrant and forever defend all and singular said right-of-way and easement unto the said Grantee, its successors, assigns and legal representatives against every person whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, this Easement Agreement is executed on this 25th day of October, 1983, at Kingsville, Texas

W. E. Cumberland

Irene Mary Cumberland  
Irene Mary Cumberland

Accepted by the City of Kingsville, a home-rule, municipal corporation and body politic existing by and under the laws of the State of Texas, this 31st day of October, 1983, pursuant to motion duly made, seconded and adopted by the City Commission of the City of Kingsville.

THE CITY OF KINGSVILLE

By: Benny Blair  
Mayor

ATTEST:

[Signature]  
City Secretary

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STATE OF TEXAS | FOR : CITY OF KINGSVILLE  
COUNTY OF KLEBERG | 20' UTILITY EASEMENT

Exhibit "A"

FIELD NOTES for a 20' Utility Easement being out of Lots 11 and 14, Section 22, of the Kleberg Town and Improvement Company Subdivision, a map of which is recorded in Volumes 1, Page 34 of the Map Records of Kleberg County, Texas and said 20' utility easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the North line of a 60' unopened road (Escondido Road) for the S.E. corner of Lot 13, and the S.W. corner of Lot 14, Section 22 of said Kleberg Town and Improvement Company Subdivision and for the S.W. corner of this 20' utility easement;

THENCE North 0°57' West along a common line between Lots 13 and 14, and 11 and 12, a distance of 2305.48 feet more or less to a point in the East right-of-way line of U. S. 77 for a corner of this 20 foot utility easement;

THENCE North 27° 44 East, with the East right of way line of U. S. 77, a distance of 41.67 feet to a point in said right-of-way for a corner of said 20 foot utility easement;

THENCE South 0°57' East parallel to and 20 feet East from the West line of Lots 11 and 14, a distance 2,342.04 feet more or less to a point in the North line of said Escondido Road and the South line of said Lot 14, Section 22, for the Southeast corner of said 20 foot utility easement;

THENCE South 89°03' West along the North line of said Escondido Road, and the South line of said Lot 14, a distance of 20' to the PLACE OF BEGINNING and containing 1.3425 acres of land.

# Easement 2

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STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 20' Utility Easement  
(0.4946 Acres)

PARCEL PA-2-P

FIELD NOTES for a 20' Utility Easement here designated Parcel PA-2-P and being out of Farm Lot 1, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas, also being out of a 50.95 acre tract known as Tract 9 and allotted to Kenneth A. Huff in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas and said 20' Utility Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the West R.O.W. line of U. S. Highway 77 Bypass at the intersection of the South R.O.W. of a 60' Unopened County Road for the N.E. corner of Farm Lot 1, Block 33 and for the N.E. corner of this 20' Utility Easement;

THENCE, S-00°-41'-33"-E, along the West line of U. S. Highway 77 Bypass, a distance of 45.73' to a point of curvature of this 20' Utility Easement;

THENCE, along the West line of U. S. Highway 77 Bypass along a curve to the right having a Delta Angle of 16°-06'-40", Radius of 3668.09', Tangent of 519.15', for an arc distance of 1031.44' to a point for the S.W. corner of said 50.95 acre tract and for the S.E. corner of this 20' Utility Easement;

THENCE, S-89°-19'-00"-W, along the South line of said 50.95' acre tract, a distance of 20.82' to a point for the S.W. corner of this 20' Utility Easement;

THENCE, in a Northeasterly direction parallel to and 20' West of the West line of U. S. Highway 77 Bypass along a curve to the left having a Delta Angle of 16°-12'-07", Radius of 3648.09', Tangent of 519.26', for an arc distance of 1031.59' to a point of Tangency of this 20' Utility Easement;

THENCE, N-00°-41'-33"-W, parallel to and 20' West of the West line of U. S. Highway 77 Bypass, a distance of 45.73' to a point in the South R.O.W. line of said 60' Unopened County Road and the North line of Farm Lot 1, Block 33 for the N.W. corner of this 20' Utility Easement;

THENCE, N-89°-19'-00"-E, along the South line of said 60' Unopened County Road and the North line of Farm Lot 1, Block 33, a distance of 20.00' to the PLACE OF BEGINNING and containing 0.4946 acre of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984

Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.



EXHIBIT "A"

Ex. p. 5

# Easement 2

VOL 459 PAGE 99

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 60' Construction Easement  
(1.4842 Acres)

PARCEL PA-2-C

FIELD NOTES for a 60' Construction Easement here designated Parcel PA-2-C and being out of Farm Lot 1, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, PG. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.95 acre tract known as Tract 9 and allotted to Kenneth A. Huff in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, PG. 164 et seq of the Deed Records of Kleberg County, Texas and said 60' Construction Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the South line of a 60' Unopened County Road, the North line of Farm Lot 1, Block 33 for the N.W. corner of a 20' Utility Easement designated as Parcel PA-2-P for the N.E. corner of this 60' Construction Easement and from whence the N.E. corner of Farm Lot 1, Block 33 in the West R.O.W. line of U. S. Highway 77 Bypass bears N-89°-19'-00"-E, 20.00';

THENCE, S-00°-41'-33"-E, along the West line of said 20' Utility Easement, a distance of 45.73' to a point of curvature of this 60' Construction Easement;

THENCE, along the West line of said 20' Utility Easement along a curve to the right having a Delta Angle of 16°-12'-07", Radius of 3648.09', Tangent of 519.26', for an arc distance of 1031.59' to a point for the S.W. corner of said 20' Utility Easement and the S.E. corner of this 60' Construction Easement;

THENCE, S-89°-19'-00"-W, a distance of 62.52' to a point for the S.W. corner of this 60' Construction Easement;

THENCE, parallel to and 60' West of the West line of said 20' Utility Easement along a curve to the left having a Delta Angle of 16°-28'-49", Radius of 3588.09', Tangent of 519.62', for an arc distance of 1032.06' to a point of Tangency of this 60' Construction Easement;

THENCE, N-00°-41'-33"-W, parallel to and 60' West of the West line of said 20' Utility Easement, a distance of 45.73' to a point in the South R.O.W. line of a 60' Unopened County Road and the North line of Farm Lot 1, Block 33 for the N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, along the South line of a 60' Unopened County Road, a distance of 60.00' to the PLACE OF BEGINNING and containing 1.4842 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984

Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.



EXHIBIT "B"

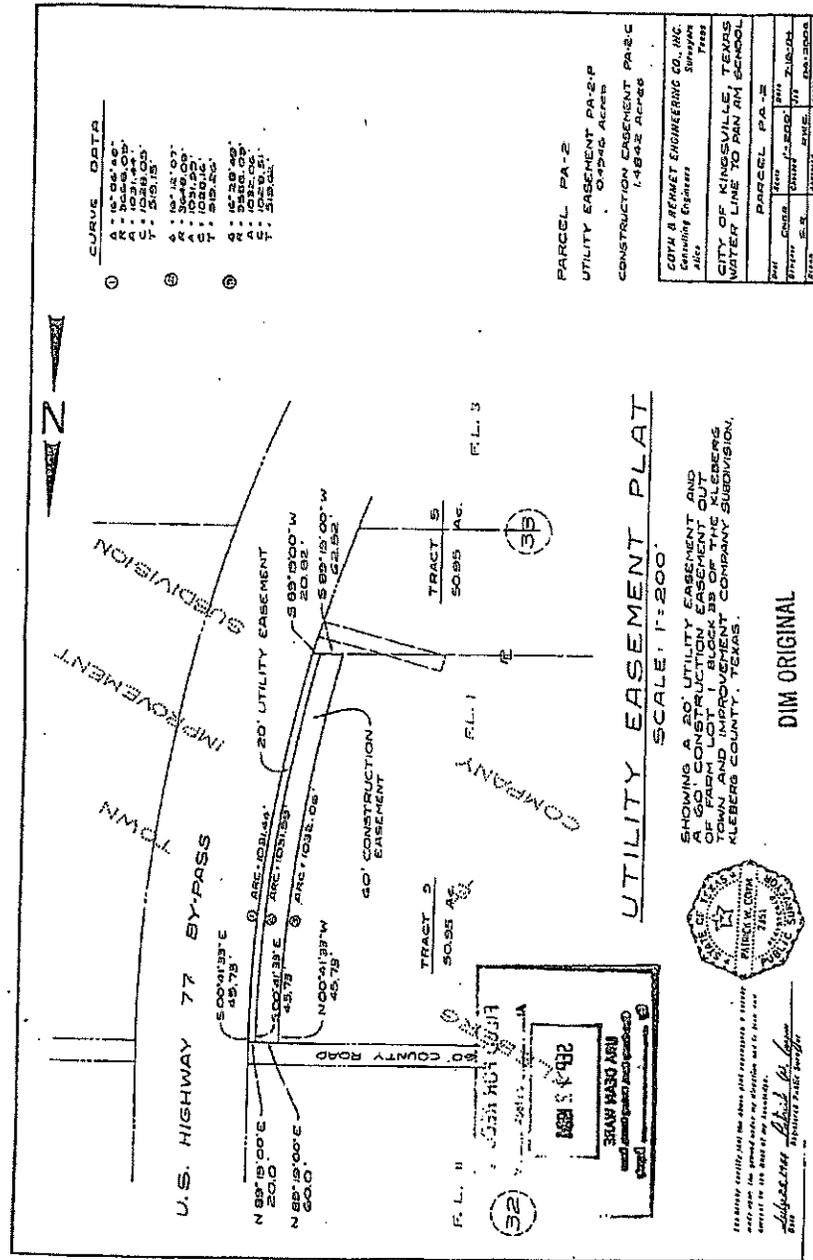
Ex. p. 6

EXHIBIT "C"

The consideration for the above easement shall be as follows:

The CITY OF KINGSVILLE hereby agrees to place an 8" tap at the Northeast corner of said tract and to allow the said KENNETH HUFF the privilege of tapping on and purchasing water to serve lands owned by him, his brother, LEONARD HUFF, and his sister, DOROTHY HAFLEY, at the normal and customary rates for residents of the CITY OF KINGSVILLE.

This privilege shall extend to the said KENNETH HUFF, his heirs and assigns forever.



STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 20' Utility Easement  
(1.1347 Acres)

PARCEL PA-3-P

FIELD NOTES for a 20' Utility Easement here designated Parcel PA-3-P and being out of Farm Lots 1 and 3, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.95 acre tract known as Tract 5 allotted to Leonard L. Huff Jr. in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas said 20' Utility Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the West R.O.W. line of a U. S. Highway 77 Bypass for the N.E. corner of said 50.95 acre tract known as Tract 5, S.E. corner of a 20' Utility Easement known as Parcel PA-2-P and for the N.E. corner of this 20' Utility Easement;

THENCE, along the West R.O.W. line of U.S. Highway 77 Bypass along a curve to the right having a Delta Angle of  $6^{\circ}-34'-53''$ , Radius of 3668.09', Tangent of 210.91', for an arc distance of 421.35' to a point of Tangency of this 20' Utility Easement;

THENCE, S- $22^{\circ}-00'-00''$ -W, along the West R.O.W. line of U. S. Highway 77 Bypass, a distance of 1406.55' to a point of intersection of the West R.O.W. line of U. S. Highway 77 Bypass in the North R.O.W. line of a 60' County Road for the S.E. corner of this 20' Utility Easement;

THENCE, S- $89^{\circ}-19'-00''$ -W, along the North R.O.W. line of said 60' County Road and the South line of Farm Lot 3, Block 33, a distance of 648.20' to a point in the West R.O.W. line of State Loop 428 for the S.W. corner of this 20' Utility Easement;

THENCE, N- $52^{\circ}-07'-22''$ -W, along the East R.O.W. line of State Loop 428, a distance of 32.09' to a point for the most Southerly N.W. corner of this 20' Utility Easement;

THENCE, N- $89^{\circ}-19'-00''$ -E, parallel to and 20' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 33, a distance of 659.97' for an inner corner of this 20' Utility Easement;

THENCE, N- $22^{\circ}-00'-00''$ -E, parallel to and 20' West of the West line of U. S. Highway 77 Bypass, a distance of 1393.24' to a point of curvature of this 20' Utility Easement;

THENCE, along a curve to the left having a Delta Angle of  $6^{\circ}-29'-27''$ , Radius of 3648.09', Tangent of 206.86', for an arc distance of 413.27' to a point for the S.W. corner of said 20' Utility Easement known as Parcel PA-2-P and the N.W. corner of this 20' Utility Easement;

THENCE, N- $89^{\circ}-19'-00''$ -E, along the North line of said 50.95 acre tract, a distance of 20.82' to the PLACE OF BEGINNING and containing 1.1347 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984 Signed: *P. W. Coym*

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.

EXHIBIT "A"



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# Easement 3

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STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 60' Construction Easement  
(3.3775 Acres)

PARCEL PA-3-C

FIELD NOTES for a 60' Construction Easement here designated Parcel PA 3-C and being out of Farm Lots 1 and 3, Block 33, of the KLEBERG TOW AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.9 acre tract known as Tract 5 allotted to Leonard L. Huff Jr. in Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg 164 et seq of the Deed Records of Kleberg County, Texas and said 60' Construction Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the North line of said 50.95 acre tract for the N.W. corner of a 20' Utility Easement known as Parcel PA-3-P at the N.E. corner of this 60' Construction Easement and from whence the N.E. corner of said 50.95 acre tract in the West R.O.W. line of U. S. Highway 77 Bypass bears N-89°-19'-00"-E, 20.82';

THENCE, along the West line of said 20' Utility Easement and along curve to the right having a Delta Angle of 6°-29'-27", Radius of 3648.09', Tangent of 206.86', for an arc distance of 413.27' to point of Tangency of this 60' Construction Easement;

THENCE, S-22°-00'-00"-W, parallel to and 20' West of the West R.O. line of U. S. Highway 77 Bypass and along the West line of said 2' Utility Easement, a distance of 1393.24' to a point for the S. corner of this 60' Construction Easement;

THENCE, S-89°-19'-00"-W, parallel to and 20' North of the North R.O. line of a 60' County Road and the South line of Farm Lot 3, Block 3 a distance of 659.97' to a point in the East R.O.W. line of State Lo 428 for the S.W. corner of this 60' Construction Easement;

THENCE, N-52°-07'-22"-W, along the East R.O.W. line of State Loop 42 a distance of 96.26' to a point for the most Southerly N.W. corner this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, parallel to and 80' North of the North R.O. line of a 60' County Road and the South line of Farm Lot 3, Block 3; a distance of 695.28' to a point for an inner corner of this 60' Construction Easement;

THENCE, N-22°-00'-00"-E, parallel to and 80' West of the West line U. S. Highway 77 Bypass, a distance of 1353.28' to a point curvature of this 60' Construction Easement;

THENCE, parallel to and 80' West of the West R.O.W. line of U. Highway 77 Bypass along a curve to the left having a Delta Angle 6°-12'-44", Radius of 3588.09', Tangent of 194.71', for an distance of 389.04' to a point for the N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, along the North line of said 50.95 acre tract a distance of 62.52' to the PLACE OF BEGINNING and containing 3.3 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23 1984

Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & RENNET ENGINEERING CO., INC.

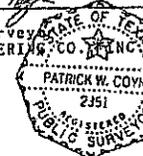


EXHIBIT 'B'

EX-P-10

# Easement 3

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## EXHIBIT "C"

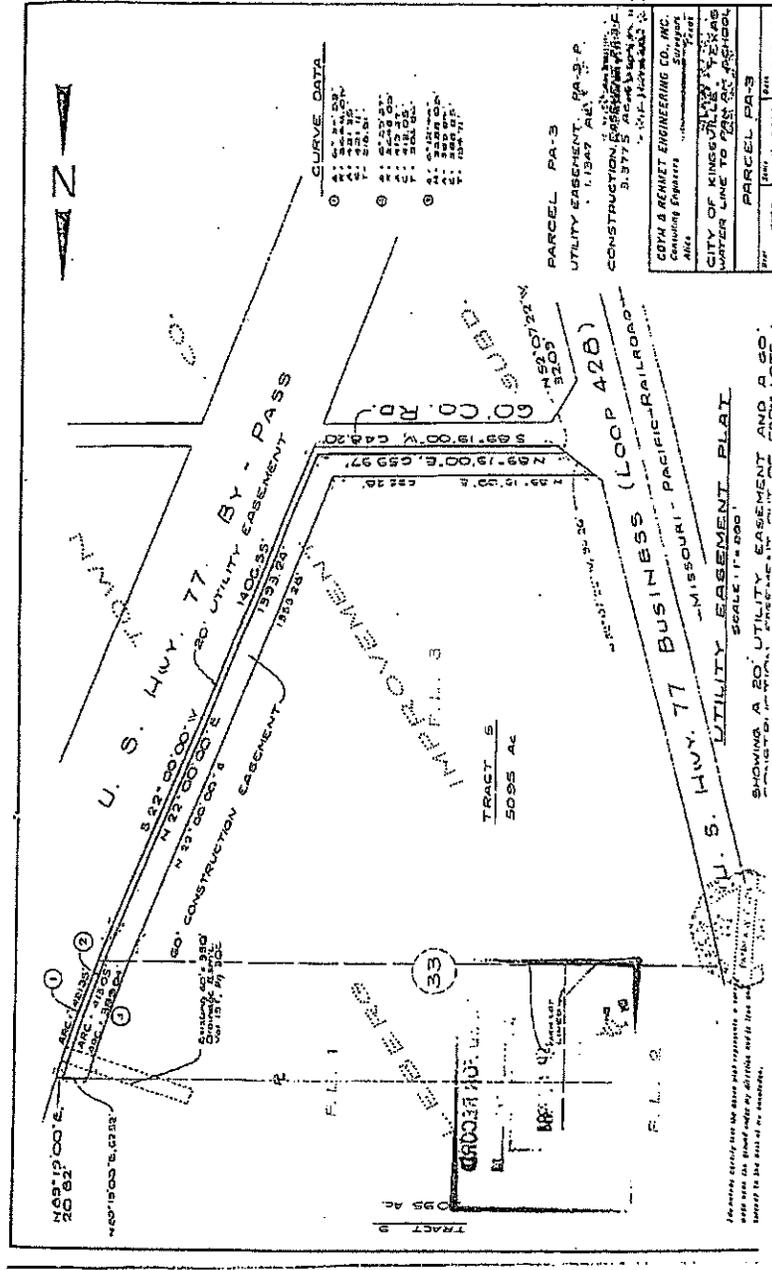
The consideration for the above easement shall be as follows:

The CITY OF KINGSVILLE hereby agrees to place an 8" tap at the Southeast corner of said tract and to allow the said LEONARD HUFF the privilege of tapping on and purchasing water to serve lands owned by him, his brother, KENNETH HUFF, and his sister, DOROTHY HAFPEY, at the normal and customary rates for the residents of the CITY OF KINGSVILLE.

This privilege shall extend to the said LEONARD HUFF, his heirs and assigns forever.

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DIM ORIGINAL



Ex. P. 12

# **AGENDA ITEM #21**

**City of Kingsville  
Engineering Dept.**

TO: Mayor and City Commissioners

CC: Mark McLaughlin, City Manager

FROM: Rutilio P. Mora Jr, P.E., City Engineer

DATE: January 13, 2020

SUBJECT: Consider approving Standard Utility Agreement with TxDOT on relocating water and wastewater utility line within the proposed R.O.W. improvements.

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**Summary:**

TxDOT will be letting the US 77/I-69 project in the Spring of 2020. The City has been made aware of the project and its need to relocate the existing City Utility lines within the existing and proposed utility easements. The City has 4 utility lines that shall be relocated which include 640 LF of 12" WW Gravity line, 310 LF of 8" WW Force Main, 3,120 LF of 12" Waterline and 3,080 LF of WW Force Main. The total length of City utility lines to be relocated are approximately 1.4 miles.

**Chapter 8 Section 2 Utility Property Ownership.**

The Texas 14<sup>th</sup> Court of Appeals ruled that utilities should be reimbursed for costs directly attributable to work performed in a PUE. All utilities within a Public Utility Easement (PUE) have compensable rights if any portion of the easement were to be incorporated into the proposed right of way limits of a transportation project. The incorporated portion gives the utilities within that portion the right to request TxDOT cost participation in any adjustment to those specific facilities.

2,735 feet of 12" waterline, 461 feet of 8" force main and 70 feet of the 12" wastewater line were installed within a 20' utility easement, TxDOT will reimburse the relocation cost of these line as stated in the attached form. Approximately 3,120 feet of City utilities were not installed in an easement and will be not be reimbursed by TxDOT.

The City was trying to negotiate a proposed utility easement with two landowners but was not been successful. The City proposed an offer of \$5,000/ac and one landowner counteroffered with \$100/foot which would of equaled \$250,000.00 for the one easement. The City's next option is to place the utility lines within the TxDOT R.O.W. The



**City of Kingsville  
Engineering Dept.**

preliminary cost estimate to relocate the lines is approximately \$660,000.00. TxDOT will reimburse approximately 44% of the relocation cost and the City participation will be approximately \$350,000.00. Professional Engineering Services will be provided by the Engineering Department and is approximately 45% reimbursable by the State. *Approval and execution of a Standard Utility Agreement with TxDOT is required in order for the City to receive any reimbursement expense for this required project.*

**Background:**

Most of these utilities have been in service since the mid 80's. The City has approximately 3,500 Linear Feet of easement which is now part of the TxDOT proposed R.O.W.

**Financial Impact:**

The financial impact is approximately \$345,000.00 and the City has allocated in the Budget \$600,000.00 under Fund 054. The Fund is named I-69 TxDOT Utility Line Relocation Project. The Account No. is 054-5-6001-71700. The State will reimburse the City approximately 45% of the Total Construction plus Professional Engineering Services Costs.

**Recommendation:**

Staff recommends approval of agenda item as presented.

**Attachments:**

Chapter 8 – Procedures for Utility Adjustments  
Proposed Utility Easement  
Standard Utility Agreement  
Statement Covering Utility Construction Contract Work



(LPA = Local Participating Agency)

## Section 1 — Adjustments

### Eligible Adjustments

When highway right of way encroaches on a utility's right of way, TxDOT will participate with the LPA in the cost of necessary utility adjustment. TxDOT will also participate in the cost associated with utility adjustments when the utilities are located on an Interstate highway project (Federal funding for right of way).

TxDOT's participation in the utility adjustment will be limited to the cost of making the adjustment, after deductions for the following:

- ◆ elective betterments;
- ◆ accrued depreciation;
- ◆ salvage or scrap value; and
- ◆ ineligible costs (e.g., loss of revenue, interest expense, entertainment, allowance for funds during construction (AFUDC)).

### Partially Eligible Adjustments

An adjustment may involve facilities located partially on highway right of way by statutory right (Public) and partially on compensable interests acquired for utility purposes (Private). Eligibility for TxDOT cost participation is determined by compensable interests held by the utility within the limits of the existing and proposed right of way. When this situation exists, an eligibility ratio must be established and approved by the District before or as part of the Utility Agreement.

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## Section 2 — Utility Property Ownership

### Public Utility Easement (PUE) Reimbursement Considerations

PUEs are rights obtained by an LPA when property is platted or re-platted for development. Right of way is reserved to accommodate utility access to the development. This right of way is intended for use of all utilities, and therefore conveys a compensable interest to any utility placed within the easement. However, the PUE does not convey a replacement right of way interest to any occupants of the PUE. The Texas 14th Court of Appeals ruled that utilities should be reimbursed for costs directly attributable to work performed in a PUE.

All utilities within a PUE have compensable rights if any portion of the easement were to be incorporated into the proposed right of way limits of a transportation project. The incorporated portion gives the utilities within that portion the right to request TxDOT cost participation in any adjustment to those specific facilities.

In this case, utilities are required to execute a Utility Joint Use Acknowledgement. The utilities located within the easement would be eligible for costs to relocate or adjust their facilities on a one-time basis, and would not be eligible to retain any future compensable rights.



### Acquisition of Right of Way from a Utility Property Owner

If a utility owns fee title to property required for a proposed right of way project, it is TxDOT's preferred practice to acquire fee title to that property. If the facilities or operations of a public utility are affected on the required right of way, the facilities will be eligible for State cost participation. This cost participation will be in accordance with the appropriate Standard Utility Agreement and the Utility Joint Use Acknowledgement.

### Compensation Considerations

A utility easement is a specific right to a legally described parcel of land that has been, or can be, recorded in the Real Property Records of the county.

In some situations, a property interest may not be possessed by a utility, but eligibility for State cost participation may be appropriate to compensate for the required adjustment. Compensation consideration may be appropriate for a railroad license agreement in favor of a utility predating a public right of way, or a joint occupancy agreement between two separate utilities (typically occupying poles) if the primary utility (typically pole owner) holds a property interest.

Occasionally, a utility will occupy, by statutory authority, areas covered by the property rights of another entity. This does not entitle the utility to retain any compensable right or to purchase

replacement rights if acquisition of the area becomes necessary for a transportation project. However, the utility is entitled to reimbursement of a compensable cost to adjust its facilities on a one-time basis.

TxDOT can recognize a local municipality's property interest if TxDOT sees a benefit and local funds are not available.

In addition, to enhancing public relations between local communities and TxDOT, the advantages to this approach are that:

- ◆ minimal documentation would be required under 23CFR 645.103d;
- ◆ any delays or stoppages due to lack of municipal funding would be avoided; and decreases in SIB utility loan requests, non-complying utility accommodations (with attendant legal issues), and contractor claims would be realized.

If questions arise regarding the status of rights claimed by a utility, that utility is responsible for documentation of these rights. TxDOT reviews property rights claimed by the utility to determine if a compensation consideration or a property right exists before making an agreement to adjust the utility's facilities.

For a utility agreement assembly to be a candidate for approval, the utility's compensation consideration must be clearly documented and supported by verifiable evidence, such as a recorded deed, easement, lease or form ROW-U-84 Compensable Interest Certificate. In situations where evidence of property interest is inadequate to support compensability, compensation consideration issues must be resolved before District approval of the utility agreement assembly.

The District may request pre-approval of the compensation consideration claim in writing. The request may include submission of the completed affidavits ROW-U-1A Affidavit (for Utility Owner), ROW-U-1B Affidavit (for Disinterested Party), or ROW-U-1C Affidavit (for Property Owner), as appropriate, to support the property interest claim. ROW Division will review the District request and reply in writing with comments and/or approval.

License agreements with a railroad that document a compensation consideration for a utility must have been executed before the highway facility was constructed. Otherwise, no compensation consideration can be acknowledged.

When municipally owned utilities are located in a city street where no previous adjustment has been performed and later becomes part of the State Highway System, a current project requiring adjustment of those municipally owned utilities may be deemed reimbursable by the State.

### Eligibility Ratio

Eligibility for reimbursement of utility adjustment costs must be clearly identified. The District may seek pre-approval of the eligibility ratio from ROW Division and continue processing the util-

ity agreement assembly for approval. Eligibility issues must be resolved before District approval of the utility agreement assembly.

Scenarios of eligibility, including eligibility ratios, are available in PDF format. The eligibility ratios found on these scenarios are based primarily upon proportional property rights as measured along the centerline of the existing utility facility. When the conflict lies solely within the joint use/acquisition of the utility's property, the eligibility ratio is 100%. Scenarios are available in PDF format. Each example scenario shows the appropriate eligibility ratio.

For example, if it is assumed that the total width of the proposed highway right of way is 300-feet, and 100-feet of the utility's existing facility is presently located on **highway right of way** by statutory right, and 200 feet is presently occupying **utility right of way** (or utility easement), then TxDOT will participate in 67% (200'/300') of the total cost of the required adjustment after deducting any credits due for betterment and salvage.

**The key determining factors for eligibility ratio are:**

- ◆ **line length for underground pipelines and cables, and**
- ◆ **main line pole location for power and overhead communication facilities. Guy poles, push braces, and down guys must be excluded from the ratio as these items are considered as supporting structures.**

In developing the ratio, line length or number of poles is restricted to facilities located within the existing and proposed highway right of way. Facilities located outside the existing and proposed right of way limits will not be used in developing the ratio. However, the percentage established from the ratio will be applied to all applicable costs necessary for the adjustment.

All applicable adjustment costs will be **ineligible** for TxDOT cost participation when line poles are on highway right of way by statutory right, and guy poles, push braces and/or down guys are on utility-owned right of way. However, TxDOT will participate in **right of way costs** incurred in conjunction with adjustment of the guy poles, push braces, and/or down guys. The basis for developing the ratio for underground pipelines, cables, overhead power and communication facilities is as follows:

Although line lengths for pole line adjustments are not generally used as a basis for determining an eligibility ratio, special conditions (e.g., transmission towers, railroad intersections) may warrant consideration for such handling. When these conditions exist, all factual data must be submitted to the District for determination regarding the appropriate method of handling.

When there are facilities to be removed and not replaced, the establishment of an eligibility ratio must not include these facilities. Utility adjustment charges must be prorated only on those facilities being functionally replaced. For further information see Section 6.

The State's participation must be limited to replacement-in-kind of the utility's property interest, including length, width, and type.

### Calculating the Eligibility Ratio at Railroads

The eligibility ratio in the case of a license agreement between a railroad and a utility is determined by the following formula:

Width of the Existing Highway= 100'

Width of the Proposed Highway= 150'

Therefore, as an example, if the existing highway is 100 feet wide, and the proposed highway is 150 feet wide, then the eligibility ratio would be 33%.

### Composite Eligibility Ratios (CER)

On any given project, there may be multiple utility adjustments at different locations within the highway right of way project limits. When these different locations contain different line sizes and/or eligibility ratios, it will be necessary to calculate a CER. A CER is calculated to mitigate administrative and accounting difficulties encountered with simultaneous work sites having different individual eligibility ratios.

The formula for determining a CER is:

$$X+Y+Z$$

$$A+B+C$$

Where:

- ◆ A= Cost of Adjustment of Utility "A"
- ◆ B= Cost of Adjustment of Utility "B"
- ◆ C= Cost of Adjustment of Utility "C"
- ◆ X= "A" times the Eligibility Ratio for Utility "A"
- ◆ Y= "B" times the Eligibility Ratio for Utility "B"
- ◆ Z= "C" times the Eligibility Ratio for Utility "C."

For example:

**Table 8-1: Composite Eligibility Ratio Calculation**

| Facility to be adjusted      | Cost of Adjustment | Individual Eligibility Ratio | X, Y & Z Factors |
|------------------------------|--------------------|------------------------------|------------------|
| City Water Line – Location A | \$20,000           | 100%                         | X = \$20,000     |
| City Sanitary Sewer          | \$10,000           | 50%                          | Y = \$5,000      |
| City Water Line – Location B | \$30,000           | 75%                          | Z = \$22,500     |

Therefore using the above example...

$$20,000 + 5,000 + 22,500 = 47,500$$

$$20,000 + 10,000 + 30,000 = 60,000$$

... the CER for this example would be 79.17%.

**The burden of proof regarding compensable interest lies with the utility company!**

When reviewing and approving the eligibility ratios, the District must consider appropriate affidavits and attachments.

#### For State and LPA

The utility's property interest can be supported either by the appropriate affidavits or ROW-U-84 Compensable Interest Certificate. Affidavits must be completed by the utility and furnished with the required attachments. The applicable form must be a part of the submission to the District in support of the adjustment. Refer to Affidavits for more information on affidavits of property ownership.

After execution of all agreements by the utility and the LPA, submit two copies of each of the following to the District:

- ◆ the executed agreement (SUP only);
- ◆ the previously approved cost estimates;
- ◆ the previously approved plans;
- ◆ all previously approved supporting material.

The submission will be reviewed by the District to verify the following:

- ◆ that the lump sum amount in ROW-U-43A Standard Utility Agreement - Lump Sum - Local Government does not exceed TxDOT's previously approved amount;
- ◆ that the agreement form has been properly prepared and executed; and

- ◆ that control of access line is shown, when applicable.

Previously assigned numbers must be placed in the appropriate spaces on the agreement if not done before execution by the utility. Signing of the agreements in the appropriate space will constitute the District Engineer's approval.

Submit all copies of the foregoing materials to the District for review. If the submission is found acceptable, agreements will be processed for TxDOT approval. Approval of the agreements will establish an agreed lump sum amount for the adjustment.

Two originals of the approved agreement and supporting data will be returned to the District by the LPA for proper distribution, when applicable. The District must then forward one original copy of the approved agreement, along with a transmittal letter, to the utility and one original copy to the ROW Program Office for record. The District's letter must advise the LPA of the following:

- ◆ to authorize the utility to proceed with the necessary adjustment
- ◆ that reimbursement in an amount of 90% of the approved lump sum amount in the agreement will be made after:
  - receipt of final bill
  - proper certification that all work has been completed in accordance with the agreement; and
  - proper certification that payment has been made to the utility.

Coordination between the District and the LPA is essential since the desired timing of the adjustments is a TxDOT function. However, notification of utilities in respect to the approval of an agreement is the LPA's responsibility.

**RESOLUTION NO. 2020-\_\_\_\_\_**

**RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A STANDARD UTILITY AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR REIMBURSEMENT OF PART OF THE CITY'S COST TO RELOCATE AND ADJUST UTILITIES DUE TO IMPROVEMENTS ALONG US 77.**

**WHEREAS**, the Texas Department of Transportation (TXDOT) is responsible for the design, construction, and operation of a system of highways in cooperation with local governments;

**WHEREAS**, the TXDOT has plans to make improvements to US77 from General Cavazos Blvd. (FM 1356) to the South Y (CR2130), which is the future I-69, and will be modifying the roadway and associated utility easements for such improvements, causing TXDOT to need the City to relocate and adjust some of its utilities from the existing utility easement to the new TxDOT R.O.W.;

**WHEREAS**, the TXDOT has a program where in certain situations it can reimburse part of the cost of a local government's utility relocation and adjustment costs and this project qualifies the City to some reimbursement of utility relocation and adjustment costs from the State;

**WHEREAS**, the City Commission of Kingsville must pass a resolution authorizing the City to enter into the Standard Utility Agreement with the Texas Department of Transportation in order to be reimbursed part of the City's utility relocation and adjustment costs.

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission authorizes the Mayor to execute the Standard Utility Agreement with the Texas Department of Transportation for reimbursement of some of the costs of relocating and adjusting the City's utilities from the utility easement to the TXDOT R.O.W. which are needed due to certain highway improvements to occur along US77 from FM 1356 to CR2130, as per the agreement attached hereto.

II.

**THAT** the Mayor, or his designee, is hereby authorized and directed to act on the City's behalf in all matters pertaining to this contract.

III.

**THAT** this Resolution shall become effective upon adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 13th day of January, 2020.

---

Sam R. Fugate  
Mayor

**ATTEST:**

---

Mary Valenzuela  
City Secretary

**APPROVED AS TO FORM:**

---

Courtney Alvarez  
City Attorney

## STANDARD UTILITY AGREEMENT

U-Number: **U-15972**

District: Corpus Christi  
Federal Project No.: NH 2017 (098)  
ROW CSJ: 0102-04-100  
Highway Project Letting Date: March 2020

County: Kleberg  
Highway: US 77  
From: FM 1356  
To: CR 2130

This Agreement by and between the State of Texas, acting by and through the Texas Transportation Commission, ("**State**"), and City of Kingsville, ("**Utility**"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **State**.

**WHEREAS**, the **State** has deemed it necessary to make certain highway improvements as designated by the **State** and approved by the Federal Highway Administration within the limits of the highway as indicated above (the "**Highway Project**");

**WHEREAS**, the proposed Highway Project will necessitate the adjustment, removal, and/or relocation of certain facilities of the **Utility** as indicated in the following statement of work: to relocate 640 LF of the City of Kingsville's 12" wastewater line from approximately Sta. 344+00 to Sta. 350+50 (16.91% Compensable), relocate 300 LF of the City of Kingsville's 8" forcemain and encase 120 LF with 16" steel casing to prevent damaging the integrity of the existing line during pile driving from approximately Sta. 411+50 to Sta. 414+50 (0% Compensable), relocate 3130 LF of the City of Kingsville's 12" water line and encase 60 LF with 20" steel casing from approximately Sta. 436+44 to Sta. 462+00 and from Sta. 10+00 to Sta. 14+35 (87.52% Compensable), relocate 3100 LF of the City of Kingsville's 6" force main and encase 50 LF with 16" steel casing from approximately Sta. 435+00 to Sta. +462+00 and from Sta. 10+00 to 15+00 (14.47% Compensable); and more specifically as shown in the **Utility's** plans, specifications and estimated costs, which are attached hereto as Attachment "A".

**WHEREAS**, the **State** will participate in the costs of the adjustment, removal, and relocation of certain facilities to the extent as may be eligible for State and/or Federal participation.

**WHEREAS**, the **State**, upon receipt of evidence it deems sufficient, acknowledges the **Utility's** interest in certain lands and facilities that entitle it to reimbursement for the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

### NOW, THEREFORE, BE IT AGREED:

The **State** will pay to the **Utility** the costs incurred in adjustment, removal, and relocation of the **Utility's** facilities up to the amount said costs may be eligible for **State** participation.

All conduct under this agreement, including but not limited to the adjustment, removal, and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4321, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, as amended, Texas Transportation Code § 223.045, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and the Utility Accommodation provisions of 23 CFR 645, Subpart B.

The **Utility** shall supply, upon request by the **State**, proof of compliance with the aforementioned laws, rules, regulations, and guidelines prior to the commencement of the adjustment, removal, and relocation of the facility.

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

The Utility shall not commence any physical work, including without limitation site preparation, on the State's right of way or future right of way, until TxDOT provides the Utility with written authorization to proceed with the physical work upon TxDOT's completion and clearance of its environmental review of the Highway Project. Any such work by the Utility prior to TxDOT's written authorization to proceed will not be eligible for reimbursement and the Utility is responsible for entering any property within the proposed limits of the Highway Project that has not yet been acquired by TxDOT. This written authorization to proceed with the physical work is in addition to the authorization to commence work outlined below. Notwithstanding the foregoing, the provisions of this paragraph are required only when TxDOT has not obtained completion and clearance of its environmental review of the Highway Project prior to the execution of this Agreement by the State and the Utility.

The Utility shall comply with the Buy America provisions of 23 U.S.C. § 313, 23 CFR 635.410, as amended, and the Steel and Iron Preference provisions of Texas Transportation Code § 223.045 and, when products that are composed predominately of steel and/or iron are incorporated into the permanent installation of the utility facility, use domestically manufactured products. TxDOT Form 1818 (Material Statement), along with all required attachments, must be submitted, prior to the commencement of the adjustment, removal, and relocation of the facility, as evidence of compliance with the aforementioned provisions. Failure to submit the required documentation or to comply with the Buy America, and Steel and Iron Preference requirements shall result in: (1) the Utility becoming ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991; (2) the State withholding reimbursement for the costs incurred by the Utility in the adjustment, removal, and relocation of the Utility's facilities; and (3) removal and replacement of the non-compliant products.

The Utility agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by the State, or may, with the State's approval, accumulate actual direct and related indirect costs in accordance with an established accounting procedure developed by the Utility. Bills for work hereunder are to be submitted to the State not later than one (1) year after completion of the work. Failure to submit the request for final payment, in addition to all supporting documentation, within one (1) year after completion of the work may result in forfeiture of payment for said work.

When requested, the State will make intermediate payments at not less than monthly intervals to the Utility when properly billed. Such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.

The State will, upon satisfactory completion of the adjustment, removal, and/or relocation and upon receipt of final billing prepared in an approved form and manner and accounting for any intermediate payments, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for State reimbursement.

Alternatively, the State agrees to pay the Utility an agreed lump sum of \$N/A as supported by the attached estimated costs. The State will, upon satisfactory completion of the adjustments, removals, and relocations and upon receipt of a final billing, make payment to the Utility in the agreed amount.

Upon execution of this agreement by both parties hereto, the State will, by written notice, authorize the Utility to perform such work diligently and to conclude said adjustment, removal, and relocation by the stated completion date which is attached hereto in Attachment "C". The completion date shall be extended for delays caused by events outside the Utility's control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the State or any other party with the Utility's ability to proceed with the work, or any other event in which the Utility has exercised all due care in the prevention thereof so that the causes of other events are beyond the control and without the fault or negligence of the Utility.

This agreement in its entirety consists of the following elements:

Standard Utility Agreement – ROW-U-35;

- Plans, Specifications, and Estimated Costs (Attachment "A");

|                  |               |                  |               |
|------------------|---------------|------------------|---------------|
| _____<br>Initial | _____<br>Date | _____<br>Initial | _____<br>Date |
| TxDOT            |               | Utility          |               |

- Accounting Method (Attachment "B");
- Schedule of Work (Attachment "C");
- Statement Covering Contract Work – ROW-U-48 (Attachment "D");
- Utility Joint Use Acknowledgment – ROW-U-JUAA and/or Utility Installation Request – Form 1082 (Attachment "E");
- Eligibility Ratio (Attachment "F");
- Betterment Calculation and Estimate (Attachment "G"); and
- Proof of Property Interest – ROW-U-1A, ROW-U-1B, or ROW-U-1C (Attachment "H").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **State** and the **Utility**.

This agreement is subject to cancellation by the **State** at any time up to the date that work under this agreement has been authorized, and such cancellation will not create any liability on the part of the **State**. However, the **State** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

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

The **Utility** by execution of this agreement does not waive any of the rights that the **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, and relocation at its own risk, and that the **State** makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

**UTILITY**

**EXECUTION RECOMMENDED:**

Utility: City of Kingsville  
*Name of Utility*

\_\_\_\_\_  
*Director of TP&D (or designee), Corpus Christi District*

By: \_\_\_\_\_  
*Authorized Signature*

Sam R. Fugate  
*Print or Type Name*

Title: Mayor

Date: \_\_\_\_\_

**THE STATE OF TEXAS**

Executed 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: \_\_\_\_\_  
*District Engineer (or designee)*

Date: \_\_\_\_\_

\_\_\_\_\_  
Initial Date  
TxDOT

\_\_\_\_\_  
Initial Date  
Utility

# Attachment "A"

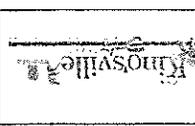
## Plans, Specifications, and Estimated Costs

All material items that must meet Buy America or Steel and Iron Preference Provision requirements must be indicated with an asterisk (\*).

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

CITY OF KINGSVILLE  
ENGINEERING DEPARTMENT  
400 West King  
Kingsville, Texas 78303  
Office 361.595.8007  
Fax 361.595.8103



Drawn by: J. Ramirez  
Checked by: R. Mora  
Date: 07/29/2019  
Job:

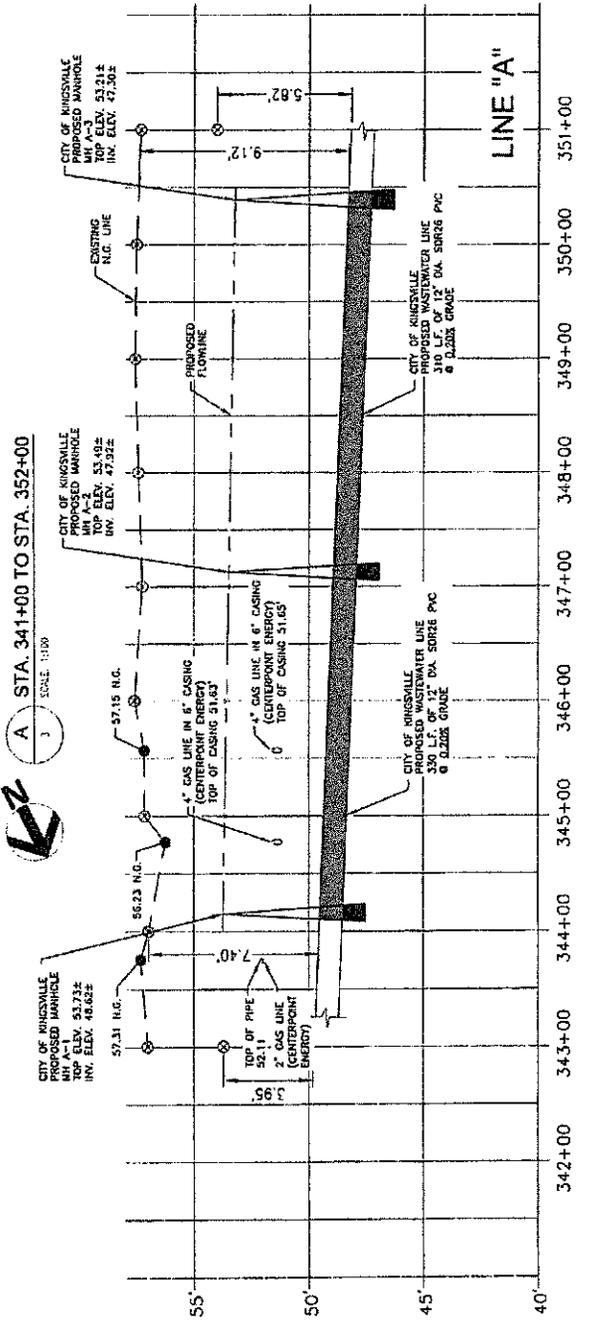
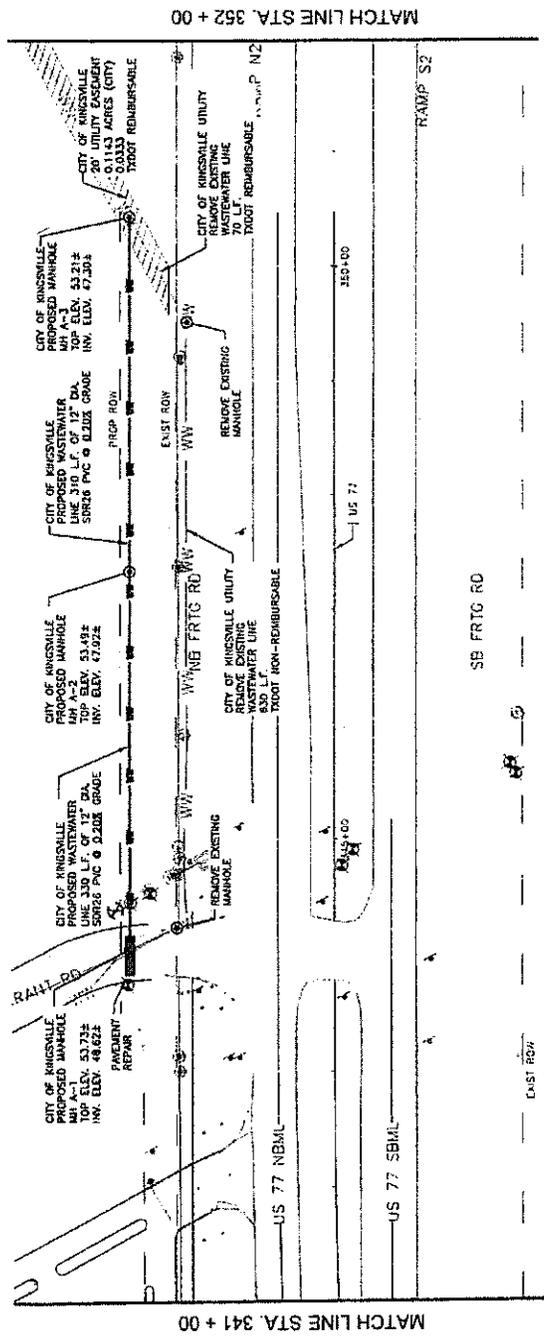
2019-JANUARY 2020  
US 77 OVERPASS UTILITIES RELOCATION  
STA. 341+00 TO STA. 352+00 - LINE "A"

SHEET  
5

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY BUILDING CODE BOOK 100, SECTION 1115.88. IT IS THE RESPONSIBILITY OF THE SEALING PROFESSIONAL ENGINEER TO THE RESPONSIBLE PROFESSIONAL ENGINEER IN THE TEXAS ENGINEERING PRACTICE ACT.



RAULO P. MORA, JR., P.E. NO. 111588



MATCH LINE STA. 341 + 00

MATCH LINE STA. 352 + 00

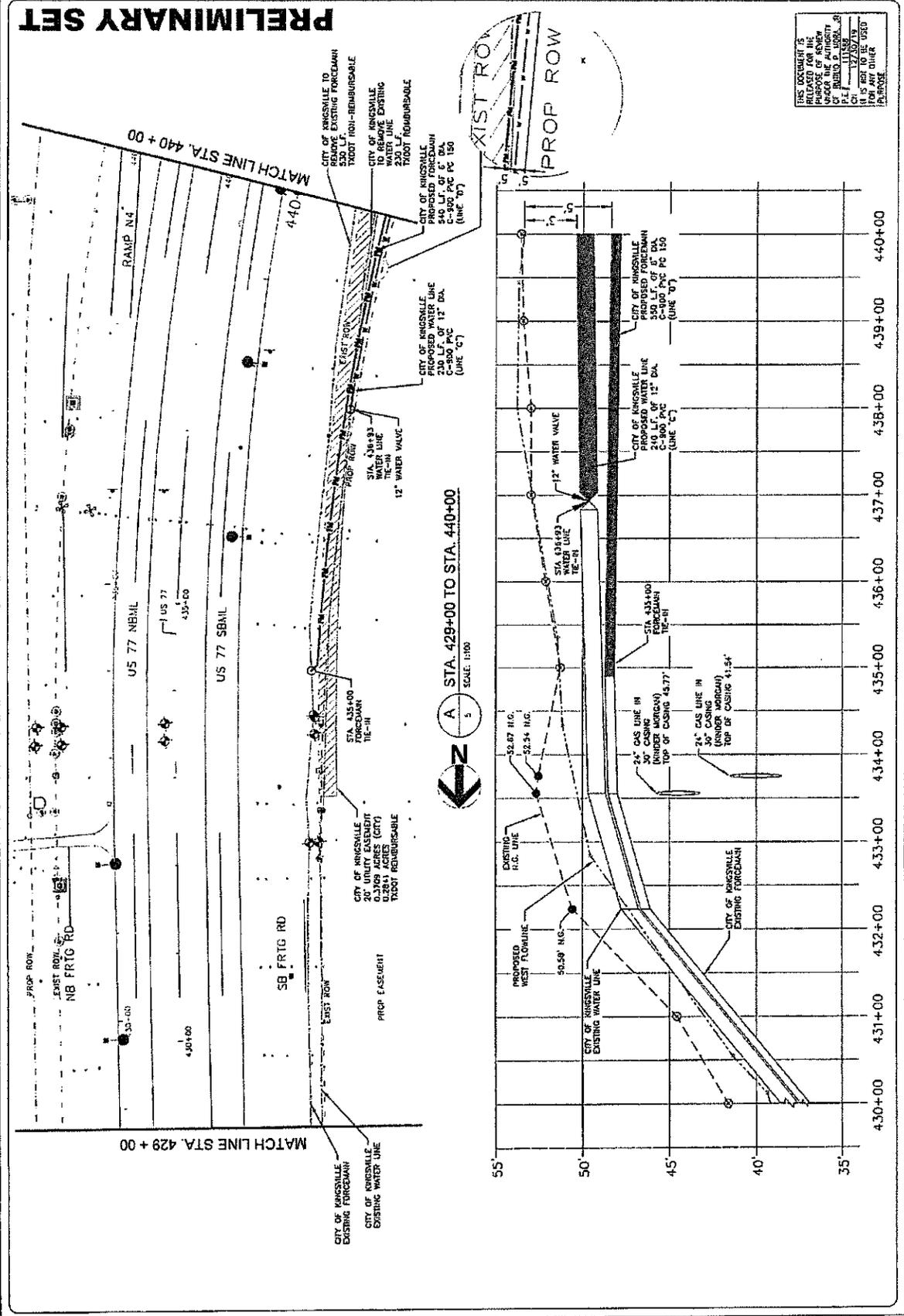
3  
A  
SCALE 1:100  
STA. 341+00 TO STA. 352+00

CITY OF KINGSVILLE  
 ENGINEERING DEPARTMENT  
 401 West King  
 Kingsville, Texas 75361  
 Phone 361.595.8377  
 Fax 361.595.8035

Drawn by: J. BAÑEZ  
 Checked by: R. MOIRA  
 Date: 07/29/2019  
 Job: STA. 429+00 TO STA. 440+00 - LINE "C" & "D"

2019 - JANUARY 2020  
 US 77 OVERPASS UTILITIES RELOCATION

SHEET 5



**PRELIMINARY SET**

THIS DOCUMENT IS THE PROPERTY OF THE CITY OF KINGSVILLE. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN PERMISSION OF THE CITY ENGINEER.

SCALE: 1"=50'  
 NORTH  
 A 5  
 STA. 429+00 TO STA. 440+00

CITY OF KINGSVILLE  
ENGINEERING DEPARTMENT  
140 West King  
Kingsville, Texas 77824  
Office 361.595.8707  
Fax 361.595.8015

Drawn By: J. MAHREZ  
Checked By: R. MOYA  
Date: 07/29/2019

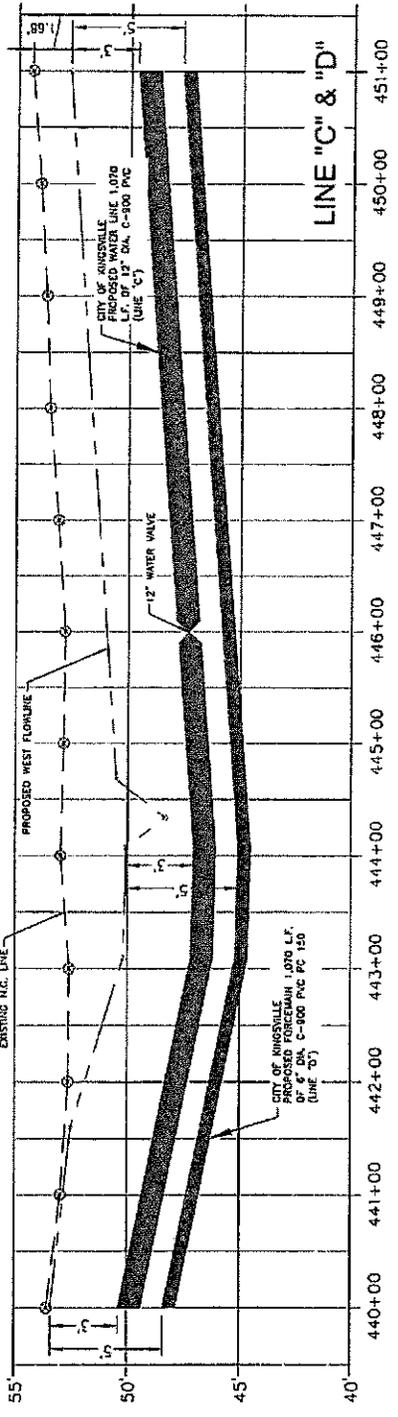
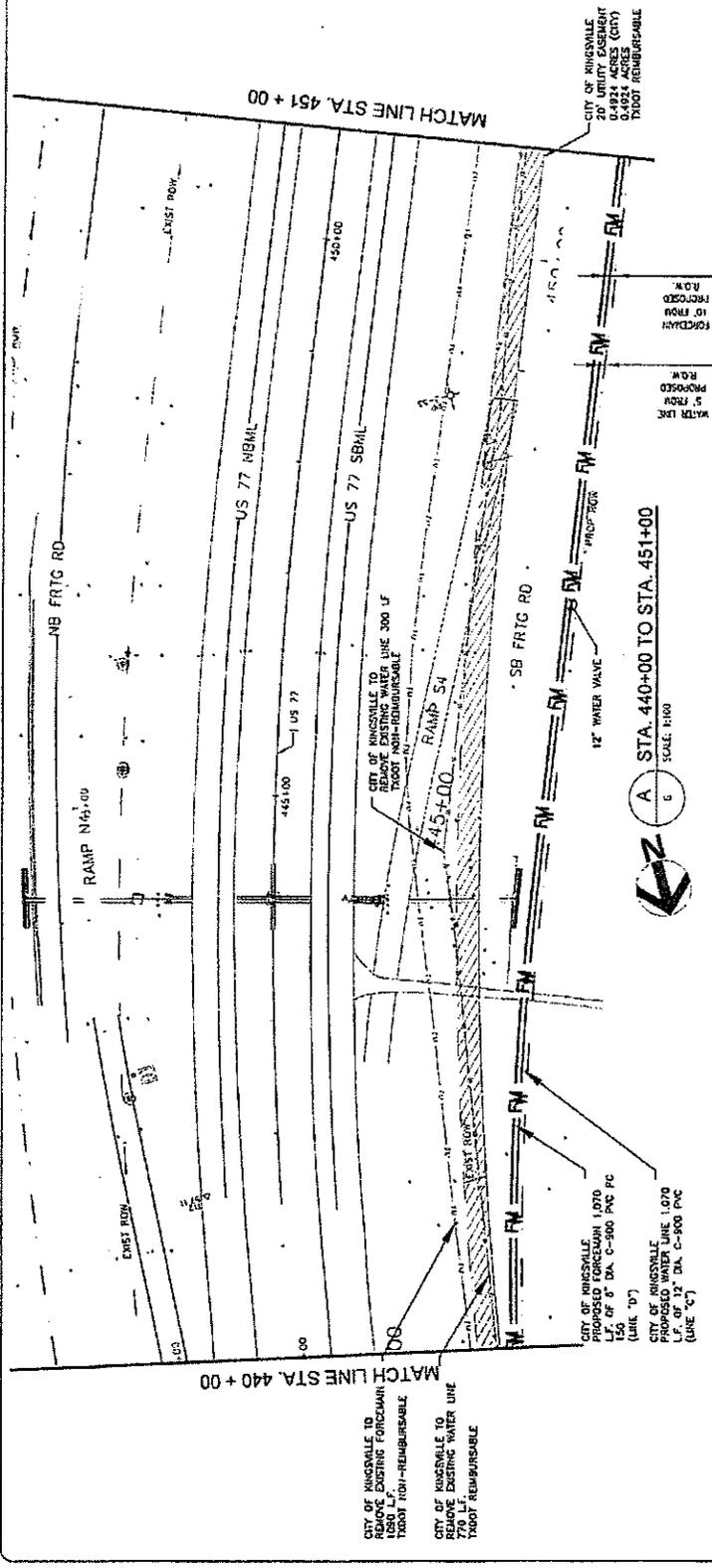
Job:  
City of Kingsville  
2019-January 2020

US 77 OVERPASS UTILITIES RELOCATION  
STA. 440+00 TO STA. 451+00 - LINE "C" & "D"

SHEET  
6

**PRELIMINARY SET**

THIS DOCUMENT IS  
PREPARED FOR THE  
PURPOSE OF THE  
CITY OF KINGSVILLE  
UNDER THE AUTHORITY  
OF BRUNO P. ARELLANO  
ON 7/29/2019  
IT IS NOT TO BE USED  
FOR ANY OTHER  
PURPOSE



US 77 NBML  
US 77 SBML  
NB FRITG RD  
SB FRITG RD  
RAMP N45+00  
RAMP S4  
12' WATER VALVE  
CITY OF KINGSVILLE  
PROPOSED FORCUMAN 1,070 L.F. OF 8" DA. C-900 PVC (LINE "D")  
CITY OF KINGSVILLE  
PROPOSED WATER LINE 1,070 L.F. OF 12" DA. C-900 PVC (LINE "C")  
CITY OF KINGSVILLE  
PROPOSED FORCUMAN 1,070 L.F. OF 8" DA. C-900 PVC (LINE "D")  
CITY OF KINGSVILLE  
PROPOSED WATER LINE 1,070 L.F. OF 12" DA. C-900 PVC (LINE "C")  
MATCH LINE STA. 440+00  
MATCH LINE STA. 451+00  
SCALE: H&V  
A  
K  
C  
PROPOSED WEST FLOORLINE  
EXISTING M.C. L.I.N.E.  
PROPOSED WATER LINE  
WATER LINE 5' FROM PROPOSED R.O.W.  
FORCUMAN 10' FROM R.O.W.  
CITY OF KINGSVILLE 0.4924 ACRES (CITY TRUST) REMUNERABLE  
CITY OF KINGSVILLE 0.4924 ACRES (CITY TRUST) REMUNERABLE

CITY OF KINGSVILLE  
ENGINEERING DEPARTMENT  
400 West King  
Kingsville, Texas 77620  
PHONE 361.593.8007  
FAX 361.595.8033

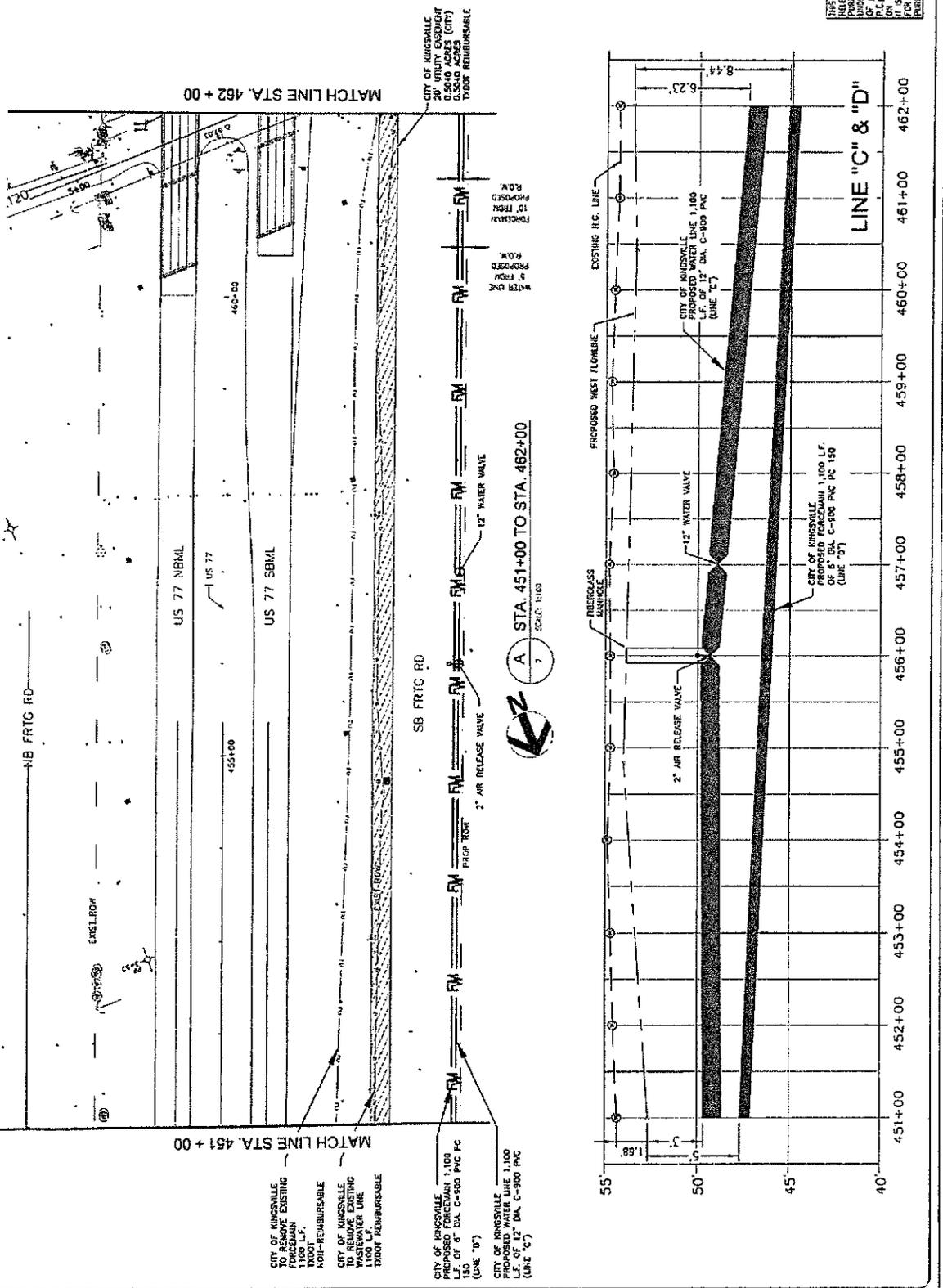
Job:  
Checked by: R. MOYRA  
Date: 07/19/2019  
Drawn by: J. RAMIREZ

2019-JANUARY 2020  
US 77 OVERPASS UTILITIES RELOCATION  
STA. 451+00 TO STA. 462+00 - LINE "C" & "D"

SHEET  
7

**PRELIMINARY SET**

THIS DOCUMENT IS  
RELEASED FOR THE  
PUBLIC INFORMATION  
OF THE PUBLIC  
BY THE CITY OF KINGSVILLE  
P.O. BOX 1000  
KINGSVILLE, TEXAS 77620  
IT IS NOT TO BE USED  
FOR ANY OTHER  
PURPOSE



MATCH LINE STA. 451 + 00

CITY OF KINGSVILLE  
TO REMAIN EXISTING  
PROPOSED FORCMAIN  
L.F. OF 8" DIA. C-900 PVC  
150  
(LINE "D")  
NOT REIMBURSABLE

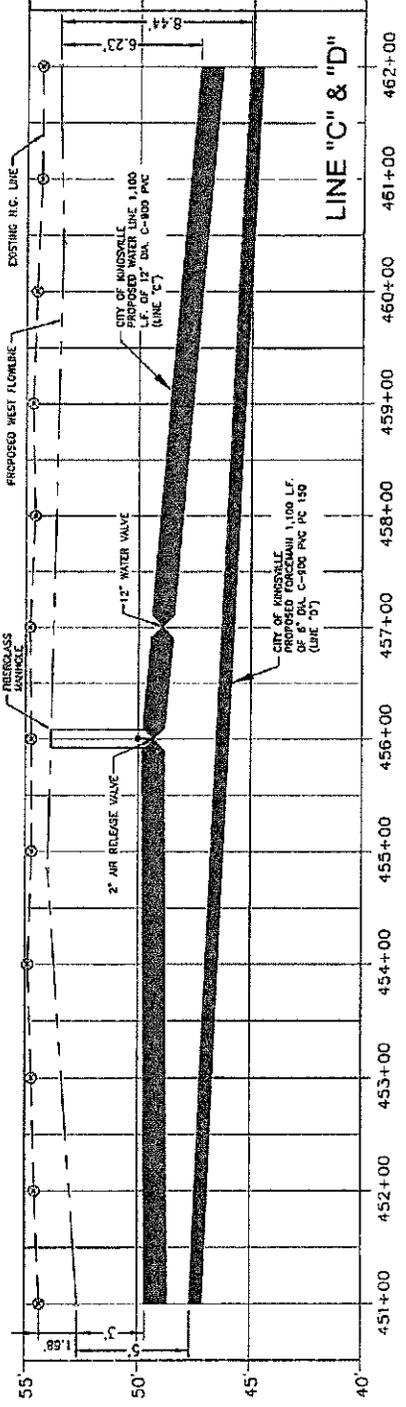
CITY OF KINGSVILLE  
TO RELocate EXISTING  
WASTEWATER LINE  
150  
(LINE "D")  
NOT REIMBURSABLE

CITY OF KINGSVILLE  
PROPOSED WATER LINE 1,100  
L.F. OF 12" DIA. C-900 PVC  
(LINE "C")  
NOT REIMBURSABLE

MATCH LINE STA. 462 + 00

CITY OF KINGSVILLE  
20' UTILITY EASEMENT  
0.5000 ACRES (CITY)  
0.5000 ACRES (CITY)  
0.5000 ACRES (CITY)  
NOT REIMBURSABLE

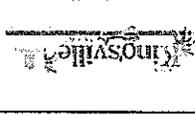
A  
7  
SCALE 1"=60'



CITY OF KINGSVILLE  
PROPOSED FORCMAIN 1,100 L.F.  
OF 8" DIA. C-900 PVC 150  
(LINE "D")

CITY OF KINGSVILLE  
PROPOSED WATER LINE 1,100  
L.F. OF 12" DIA. C-900 PVC  
(LINE "C")

CITY OF KINGSVILLE  
ENGINEERING DEPARTMENT  
400 West King  
Kingsville, Texas 77603  
Office 361.595.8007  
Fax 361.595.8025



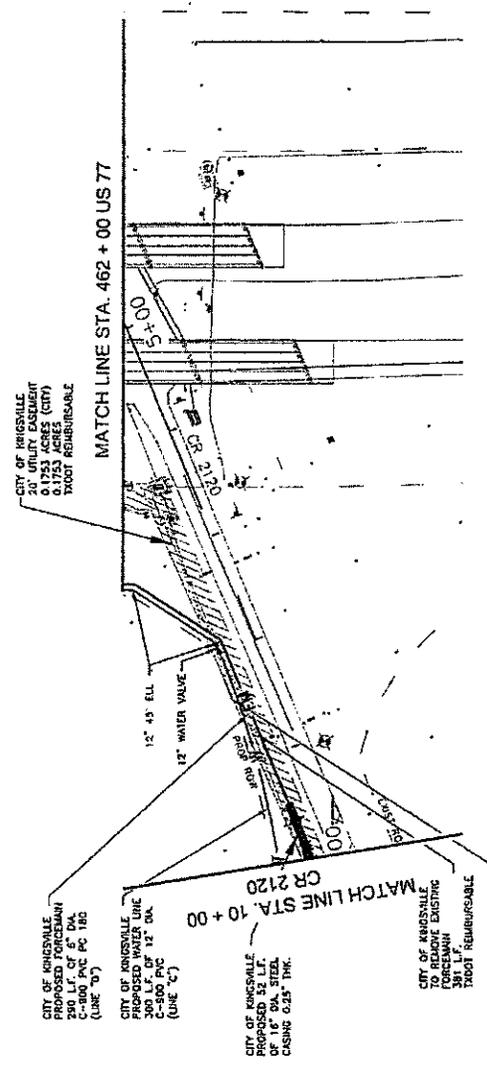
Drawn by: J. RAMIREZ  
Checked by: R. MORAN  
Date: 07/25/2019  
Job:

2019 - JANUARY 2020  
US 77 OVERPASS UTILITIES RELOCATION  
CR 2120 STA 9+00 TO US 77 STA 462+00 - LINE "C" & "D"

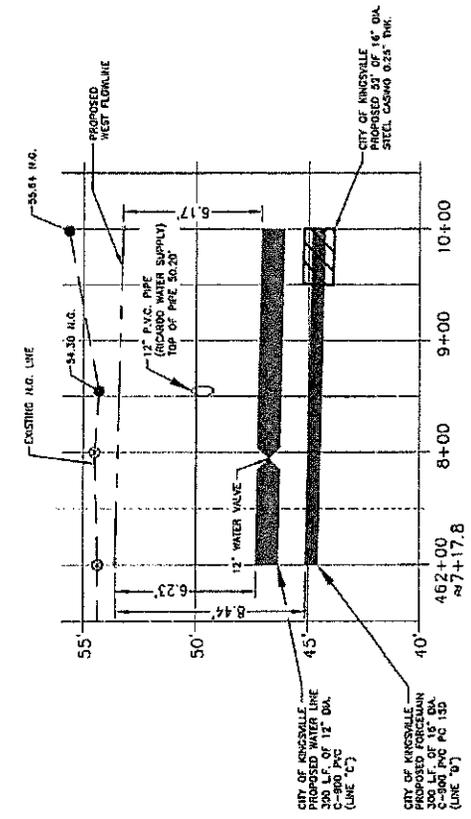
SHEET  
8

**PRELIMINARY SET**

THIS DOCUMENT IS  
THE PROPERTY OF THE  
CITY OF KINGSVILLE  
FOR OFFICIAL USE ONLY.  
IT IS NOT TO BE USED  
FOR ANY OTHER  
PURPOSE.



A CR 2120 STA. 9 + 00 TO US 77 STA. 462+00  
SCALE: 1"=10'





PRELIMINARY COST ESTIMATE

Project No. N/A  
 Project Name CITY OF KINGSVILLE - US 77 OVERPASS UTILITY RELOCATIONS  
 Date Monday, December 23, 2019

City of Kingsville  
 Engineering Department  
 400 W. King Avenue  
 Kingsville, TX 78363

\* - "buy America"

| ITEM   | QTY | UNIT | DESCRIPTION                                       | UNIT PRICE  | TOTAL PRICE  |
|--|-----|------|---|-------------|--------------|
| 12" Wastewater Main Relocation (Eastside) - Line A |     |      |   |             |              |
| A-1  | 640 | LF   | 12" Dia. SDR 26 PVC <6' Depth                     | \$ 10.25    | \$ 6,560.00  |
| A-2  | 3   | EA   | Pipe Joint Lubricant                              | \$ 28.50    | \$ 85.50     |
| A-3  | 1   | EA   | 12" Dia. PVC Sewer Plug                           | \$ 125.26   | \$ 125.26    |
| A-4  | 1   | EA   | Detectable Warning Tape                           | \$ 35.00    | \$ 35.00     |
| A-5  | 3   | EA   | 6' x 6' Concrete Footing                          | \$ 170.00   | \$ 510.00    |
| A-6  | 9   | EA   | #4 Steel Rebar*                                   | \$ 8.00     | \$ 72.00     |
| A-7  | 3   | EA   | 4' Dia. Fiberglass Manhole <6' Depth              | \$ 1,822.70 | \$ 5,468.10  |
| A-8  | 3   | EA   | Manhole Lid (30" Opening x 4' dia. X 6' long)*    | \$ 465.00   | \$ 1,395.00  |
| A-9  | 3   | EA   | Rain Flow Inhibitor Stainless Steel               | \$ 280.00   | \$ 840.00    |
| A-10   | 27  | EA   | Concrete Adjustable Rings                         | \$ 65.00    | \$ 1,755.00  |
| A-11   | 3   | EA   | Epoxy Coating                                     | \$ 130.00   | \$ 390.00    |
| A-12   | 2.5 | TON  | Asphalt   | \$ 74.50    | \$ 186.25    |
| A-13   | 640 | LF   | Trench Safety                                     | \$ 5.00     | \$ 3,200.00  |
| A-14   | 1   | LS   | Erosion Control                                   | \$ 5,000.00 | \$ 5,000.00  |
| A-15   | 1   | LS   | Traffic Control                                   | \$ 6,875.00 | \$ 6,875.00  |
| A-16   | 680 | LF   | Remove/Dispose Existing Utility Line and Backfill | \$ 38.40    | \$ 26,112.00 |
| A-17   | 3   | EA   | Remove/Dispose Manholes                           | \$ 8,000.00 | \$ 24,000.00 |
| A-18   | 8   | HR   | Asphalt Pavement Repair                           | \$ 120.00   | \$ 960.00    |
| A-19   | 1   | EA   | Bypass Pumping                                    | \$ 1,000.00 | \$ 1,000.00  |
| A-20   | 40  | HR   | Excavator   | \$ 37.50    | \$ 1,500.00  |
| A-21   | 40  | HR   | Utility Truck                                     | \$ 25.00    | \$ 1,000.00  |
| A-22   | 40  | HR   | Utility Trailer                                   | \$ 20.00    | \$ 800.00    |
| A-23   | 40  | HR   | Dump Truck  | \$ 40.00    | \$ 1,600.00  |
| A-24   | 40  | HR   | 1/2 Ton Truck                                     | \$ 25.00    | \$ 1,000.00  |
| A-25   | 40  | HR   | Mini Loader                                       | \$ 30.00    | \$ 1,200.00  |
| A-26   | 40  | HR   | Front Loader                                      | \$ 35.00    | \$ 1,400.00  |
| 12" WW RELOCATION CONSTRUCTION COST ESTIMATE       |     |      |   |             | \$93,069.11  |
| SUBTOTAL TXDOT REIMBURSEMENT COST (16.91%)         |     |      |   |             | \$15,737.99  |
| SUBTOTAL CITY RELOCATION COST (83.09%)             |     |      |   |             | \$77,331.13  |

Material

Sup. Cons.

Labor & Equipment

**PRELIMINARY COST ESTIMATE**

| ITEM  | QTY  | UNIT | DESCRIPTION  | UNIT PRICE  | TOTAL PRICE        |
|---|------|------|--|-------------|--------------------|
| <b>8" Wastewater Forcemain Relocation (Westside) - Line B</b>   |      |      |  |             |                    |
| B-1   | 310  | LF   | 8" Dia. Wastewater Forcemain C900 PVC PC 150 <8' Depth | \$ 10.50    | \$ 3,255.00        |
| B-2   | 1    | EA   | Pipe Joint Lubricant                                   | \$ 28.50    | \$ 28.50           |
| B-3   | 1    | EA   | Detectable Warning Tape                                | \$ 35.00    | \$ 35.00           |
| B-4   | 120  | LF   | 16" Dia. Steel Casing*                                 | \$ 66.26    | \$ 7,950.60        |
| B-5   | 15   | EA   | Epoxy Steel Casing Spacers*                            | \$ 90.98    | \$ 1,364.70        |
| B-6   | 2    | EA   | Casing End Seal  | \$ 80.00    | \$ 160.00          |
| B-7   | 190  | LF   | Trench Safety  | \$ 5.00     | \$ 950.00          |
| B-8   | 1    | LS   | Erosion Control  | \$ 5,000.00 | \$ 5,000.00        |
| B-9   | 1    | LS   | Traffic Control  | \$ 6,875.00 | \$ 6,875.00        |
| B-10  | 300  | LF   | Remove/Dispose Existing Utility Line and Backfill      | \$ 38.40    | \$ 11,520.00       |
| B-11  | 120  | HR   | 16" Dia. Steel Casing Bore                             | \$ 200.00   | \$ 24,000.00       |
| B-12  | 40   | HR   | Excavator  | \$ 37.50    | \$ 1,500.00        |
| B-13  | 40   | HR   | Utility Truck  | \$ 25.00    | \$ 1,000.00        |
| B-14  | 40   | HR   | Utility Trailer  | \$ 20.00    | \$ 800.00          |
| B-15  | 40   | HR   | Dump Truck   | \$ 40.00    | \$ 1,600.00        |
| B-16  | 40   | HR   | 1/2 Ton Truck  | \$ 25.00    | \$ 1,000.00        |
| B-17  | 40   | HR   | Mini Loader  | \$ 30.00    | \$ 1,200.00        |
| B-18  | 40   | HR   | Front Loader   | \$ 35.00    | \$ 1,400.00        |
| <b>8" WW FM RELOCATION EXTENSION CONSTRUCTION COST ESTIMATE</b> |      |      |  |             | <b>\$69,638.80</b> |
| <b>SUBTOTAL TXDOT REIMBURSEMENT COST (0.00%)</b>                |      |      |  |             | <b>\$0.00</b>      |
| <b>SUBTOTAL CITY RELOCATION COST (100.00%)</b>                  |      |      |  |             | <b>\$69,638.80</b> |
|   |      |      |  |             |                    |
| <b>12" Waterline Relocation (Westside) - Line C</b>             |      |      |  |             |                    |
| C-1   | 3120 | LF   | 12" Dia. C-900 PVC Waterline (Material)                | \$ 16.50    | \$ 51,480.00       |
| C-2   | 8    | EA   | Pipe Joint Lubricant                                   | \$ 28.50    | \$ 228.00          |
| C-3   | 6    | EA   | 5# HTH Dry Granular Chlorine - Disinfection            | \$ 28.50    | \$ 171.00          |
| C-4   | 4    | EA   | Detectable Warning Tape                                | \$ 35.00    | \$ 140.00          |
| C-5   | 60   | LF   | 20" Dia. Steel Casing*                                 | \$ 122.41   | \$ 7,344.77        |
| C-6   | 9    | EA   | Epoxy Steel Casing Spacers*                            | \$ 90.98    | \$ 818.82          |
| C-7   | 2    | EA   | Casing End Seal  | \$ 80.00    | \$ 160.00          |
| C-8   | 1    | EA   | 1' x 2' Concrete Footing with Interior Gravel Bedding  | \$ 90.00    | \$ 90.00           |
| C-9   | 1    | EA   | 5' Dia. Fiberglass Manhole <10' Depth                  | \$ 1,822.70 | \$ 1,822.70        |
| C-10  | 1    | EA   | Manhole Lid (30" Opening x 4' dia. X 10' long)*        | \$ 465.00   | \$ 465.00          |
| C-11  | 9    | EA   | Concrete Adjustable Rings                              | \$ 65.00    | \$ 585.00          |
| C-12  | 1    | EA   | Epoxy Coating  | \$ 130.00   | \$ 130.00          |
| C-13  | 5    | EA   | 12" Dia. Gate Valve*                                   | \$ 2,150.00 | \$ 10,750.00       |

Material

Sup. Cons.

Labor & Equipment

**PRELIMINARY COST ESTIMATE**

|  |      |    |   |    |          |    |                     |
|--|------|----|---|----|----------|----|---------------------|
| C-14   | 10   | EA | 12" Dia. PVC Wedge Restraint Gland*               | \$ | 137.95   | \$ | 1,379.50            |
| C-15   | 5    | EA | Valve Box Top Section*                            | \$ | 56.50    | \$ | 282.50              |
| C-16   | 5    | EA | Valve Box Lid (Water)*                            | \$ | 23.95    | \$ | 119.75              |
| C-17   | 5    | EA | Valve Box Bottom Section*                         | \$ | 69.15    | \$ | 345.75              |
| C-18   | 1    | EA | 60" Dia. x 6' FRP Manhole 1/2" Wall               | \$ | 2,550.00 | \$ | 2,550.00            |
| C-19   | 1    | EA | 32" Dia. Ring and Cover (Water)*                  | \$ | 465.00   | \$ | 465.00              |
| C-20   | 2    | EA | 12" x 2" Double Strap Bronze Saddle               | \$ | 316.69   | \$ | 633.38              |
| C-21   | 1    | EA | 2" x 12" Brass Nipple GBL                         | \$ | 51.44    | \$ | 51.44               |
| C-22   | 1    | EA | 2" Combination Air Release Valve                  | \$ | 650.00   | \$ | 650.00              |
| C-23   | 2    | EA | Mechanical Joint C153                             | \$ | 307.50   | \$ | 615.00              |
| C-24   | 2    | EA | 12" Dia. PVC Wedge Restraint Gland                | \$ | 137.95   | \$ | 275.90              |
| C-25   | 2    | EA | Galvanized Malleable Iron 150# 90 Elbow*          | \$ | 42.88    | \$ | 85.76               |
| C-26   | 2    | EA | 2" x 12" Galvanized STL Nipple*                   | \$ | 37.26    | \$ | 74.52               |
| C-27   | 2    | EA | 2" Galvanized Malleable Iron 150# Coupling*       | \$ | 26.60    | \$ | 53.20               |
| C-28   | 2    | EA | 2" x 48" Galvanized Ready Cut Pipe Tube*          | \$ | 119.52   | \$ | 239.04              |
| C-29   | 3    | EA | Bronze 125# Threaded Non-Rising Stem Gate         | \$ | 204.28   | \$ | 612.84              |
| C-30   | 10   | EA | Mechanical Joint P153 P-401 45 Elbow*             | \$ | 246.48   | \$ | 2,464.80            |
| C-31   | 3120 | LF | Trench Safety                                     | \$ | 5.00     | \$ | 15,600.00           |
| C-32   | 1    | LS | Erosion Control                                   | \$ | 5,000.00 | \$ | 5,000.00            |
| C-33   | 1    | LS | Traffic Control                                   | \$ | 6,875.00 | \$ | 6,875.00            |
| C-34   | 3180 | LF | Remove/Dispose Existing Utility Line and Backfill | \$ | 38.40    | \$ | 122,112.00          |
| C-35   | 45   | HR | 20" Dia. Steel Casing Bore                        | \$ | 200.00   | \$ | 9,000.00            |
| C-36   | 80   | HR | Excavator   | \$ | 37.50    | \$ | 3,000.00            |
| C-37   | 80   | HR | Utility Truck                                     | \$ | 25.00    | \$ | 2,000.00            |
| C-38   | 80   | HR | Utility Trailer                                   | \$ | 20.00    | \$ | 1,600.00            |
| C-39   | 80   | HR | Dump Truck  | \$ | 40.00    | \$ | 3,200.00            |
| C-40   | 80   | HR | 1/2 Ton Truck                                     | \$ | 25.00    | \$ | 2,000.00            |
| C-41   | 80   | HR | Mini Loader                                       | \$ | 30.00    | \$ | 2,400.00            |
| C-42   | 80   | HR | Front Loader                                      | \$ | 35.00    | \$ | 2,800.00            |
| <b>12" WATERLINE RELOCATION CONSTRUCTION COST ESTIMATE</b> |      |    |   |    |          |    | <b>\$260,670.67</b> |
| <b>SUBTOTAL TXDOT REIMBURSEMENT COST (87.52%)</b>          |      |    |   |    |          |    | <b>\$228,138.97</b> |
| <b>SUBTOTAL CITY RELOCATION COST (12.48%)</b>              |      |    |   |    |          |    | <b>\$32,531.70</b>  |
| <b>Material</b>  |      |    |   |    |          |    |                     |
| <b>Sup. Cons.</b>  |      |    |   |    |          |    |                     |
| <b>Labor &amp; Equipment</b>                               |      |    |   |    |          |    |                     |

PRELIMINARY COST ESTIMATE

| ITEM   | QTY  | UNIT | DESCRIPTION   | UNIT PRICE  | TOTAL PRICE   |
|--|------|------|---|-------------|---------------|
| 6" Wastewater Forcemain Relocation (Westside) - Line D |      |      |   |             |               |
| D-1  | 3080 | LF   | 6" Dia. Wastewater Forcemain C 900 PVC PC 150 <6' Depth | \$ 5.95     | \$ 18,326.00  |
| D-2  | 8    | EA   | Pipe Joint Lubricant                                    | \$ 28.50    | \$ 228.00     |
| D-3  | 4    | EA   | Detectable Warning Tape                                 | \$ 35.00    | \$ 140.00     |
| D-4  | 130  | LF   | 16" Dia. Steel Casing*                                  | \$ 66.26    | \$ 8,613.15   |
| D-5  | 18   | EA   | Epoxy Steel Casing Spacers*                             | \$ 90.98    | \$ 1,637.64   |
| D-6  | 2    | EA   | Casing End Seal   | \$ 80.00    | \$ 160.00     |
| D-7  | 1    | EA   | 12" x 2" Double Strap Bronze Saddle                     | \$ 247.20   | \$ 247.20     |
| D-8  | 2    | EA   | 2" x 12" Brass Nipple GBL                               | \$ 51.44    | \$ 102.88     |
| D-9  | 1    | EA   | Bronze 12.5# Threaded Non-Rising Stem Gate              | \$ 204.28   | \$ 204.28     |
| D-10   | 2950 | LF   | Trench Safety   | \$ 5.00     | \$ 14,750.00  |
| D-11   | 1    | LS   | Erosion Control   | \$ 5,000.00 | \$ 5,000.00   |
| D-12   | 1    | LS   | Traffic Control   | \$ 6,875.00 | \$ 6,875.00   |
| D-13   | 3180 | LF   | Remove/Dispose Existing Utility Line and Backfill       | \$ 38.40    | \$ 122,112.00 |
| D-4  | 38   | HR   | 16" Dia. Steel Casing Bore                              | \$ 200.00   | \$ 7,600.00   |
| D-14   | 80   | HR   | Excavator   | \$ 37.50    | \$ 3,000.00   |
| D-15   | 80   | HR   | Utility Truck   | \$ 25.00    | \$ 2,000.00   |
| D-16   | 80   | HR   | Utility Trailer   | \$ 20.00    | \$ 1,600.00   |
| D-17   | 80   | HR   | Dump Truck  | \$ 40.00    | \$ 3,200.00   |
| D-18   | 80   | HR   | 1/2 Ton Truck   | \$ 25.00    | \$ 2,000.00   |
| D-19   | 80   | HR   | Mini Loader   | \$ 30.00    | \$ 2,400.00   |
| D-20   | 80   | HR   | Front Loader  | \$ 35.00    | \$ 2,800.00   |
| 6" WW FM RELOCATION CONSTRUCTION COST ESTIMATE         |      |      |   |             |               |
| SUBTOTAL TXDOT REIMBURSEMENT COST (14.47%)             |      |      |   |             | \$202,996.15  |
| SUBTOTAL CITY RELOCATION COST (85.53%)                 |      |      |   |             | \$29,373.54   |
|  |      |      |   |             | \$173,622.61  |
| <b>TOTAL CONSTRUCTION COST</b>                         |      |      |   |             |               |
| TOTAL TXDOT REIMBURSEMENT COST (43.88%)                |      |      |   |             | \$626,374.73  |
| TOTAL CITY RELOCATION COST (55.12%)                    |      |      |   |             | \$273,250.50  |
|  |      |      |   |             | \$353,124.23  |

PRELIMINARY COST ESTIMATE

| ITEM                                      | QTY | UNIT | DESCRIPTION                 | UNIT PRICE | TOTAL PRICE  |
|---|-----|------|-----------------------------|------------|--------------|
| 1   | 300 | HR   | Engineer                    | \$ 71.01   | \$ 21,303.00 |
| 2   | 600 | HR   | Assistant Engineer I        | \$ 31.97   | \$ 19,182.00 |
| 3   | 550 | HR   | Assistant Engineer II       | \$ 31.97   | \$ 17,583.50 |
| 4   | 450 | HR   | GIS Technician              | \$ 14.07   | \$ 6,331.50  |
| 5   | 400 | HR   | Engineering Technician      | \$ 14.07   | \$ 5,628.00  |
| 6   | 200 | HR   | Administrative Assistant II | \$ 28.48   | \$ 5,696.00  |
| ENGINEERING FEES COST ESTIMATE            |     |      |                             |            | \$75,724.00  |
| SUBTOTAL TXDOT REIMBURSEMENT COST (43.88) |     |      |                             |            | \$33,227.69  |
| SUBTOTAL CITY COST (56.12%)               |     |      |                             |            | \$42,496.31  |

Internal Labor

|   |      |      |                                 |             |             |
|---|------|------|---------------------------------|-------------|-------------|
| 1 | 1.63 | ACRE | Existing Easement Reimbursement | \$ 5,000.00 | \$ 8,152.00 |
|---|------|------|---------------------------------|-------------|-------------|

|  |  |  |  |  |              |
|--|--|--|--|--|--------------|
| TOTAL PROJECT COST   |  |  |  |  | \$702,098.73 |
| TOTAL TXDOT REIMBURSEMENT COST + ENGINEERING FEES (43.88%)   |  |  |  |  | \$306,478.19 |
| TOTAL CITY RELOCATION COST - EASEMENT REIMBURSEMENT (55.12%) |  |  |  |  | \$344,972.23 |

## Attachment "B" Accounting Method

**Actual Cost Method of Accounting**

The utility accumulates cost under a work order accounting procedure prescribed by the Federal or State regulatory body and proposes to request reimbursement for actual direct and related indirect costs.

**Lump Sum Method of Accounting**

Utility proposed to request reimbursement based on an agreed lump sum amount supported by a detailed cost analysis.

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

## Attachment "C" Schedule of Work

Estimated Start Date: March 2, 2020, (subject to physical work restrictions prior to the issuance of environmental clearance as required by the provisions of this agreement)

Estimated Duration (days): 183

Estimated Completion Date: August 31, 2020

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility



# Attachment "D" Statement Covering Contract Work

(ROW-U-48)  
(ROW-U-48-1, if applicable)

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility



STATEMENT COVERING UTILITY CONSTRUCTION CONTRACT WORK
(AS APPEARING IN ESTIMATE)

Form ROW-U-48
(Rev. 3/19)
Page 1 of 1

U-Number: U-15972

ROW CSJ Number: 0102-04-100 District: Corpus Christi
County: Kleberg Highway No.: US 77
Federal Project No.: NH2017 (098)

I, Sam r. Fugate, a duly authorized and qualified representative of
City of Kingsville, hereinafter referred to as Owner, am fully cognizant of the
facts and make the following statements in respect to work which will or may be done on a contract basis as it appears in the
estimate to which this statement is attached.

It is more economical and/or expedient for Owner to contract this adjustment, or Owner is not adequately staffed or equipped
to perform the necessary work on this project with its own forces to the extent as indicate on the estimate.

Procedure to be Used in Contracting Work

- A. Solicitation for bids is to be accomplished through open advertising and contract is to be awarded to the lowest
qualified bidder who submits a proposal in conformity with the requirements and specifications for the work to be
performed. Associated bid tabulations will be provided to the State.
B. Solicitation for bids is to be accomplished by circulating to a list of pre-qualified contractors or known qualified
contractors and such contract is to be awarded to the lowest qualified bidder who submits a proposal in conformity
with the requirements and specifications for the work to be performed. Associated bid tabulations will be provided to
the State. Such presently known contractors are listed below:
1.
C. The work is to be performed under an existing continuing contract under which certain work is regularly performed
for Owner and under which the lowest available costs are developed. The existing continuing contract will be made
available to the State for review at a location mutually acceptable to the Owner and the State. If only part of the
contract work is to be done under an existing contract, give detailed information by attachment hereto.
D. The utility proposes to contract outside the foregoing requirements and therefore evidence in support of its proposal
is attached to the estimate in order to obtain the concurrence of the State, and the Federal Highway Administration
Division Engineer where applicable, prior to taking action thereon (approval of the agreement shall be considered as
approval of such proposal).
E. The utility plans and specifications, with the consent of the State, will be included in the construction contract
awarded by the State. In the best interest of both the State and the Owner, the Owner requests the State to include
the plans and specifications for this work in the general contract for construction of Highway in this area, so that the work can be coordinated with the other construction operations; and the construction
contract is to be awarded by the State to the lowest qualified bidder who submits a proposal in conformity with the
requirements and specifications for the work to be performed. If this option is chosen, attach form ROW-U-48-1, the
terms of which are incorporated herein by reference.

Signature
Mayor
Title

Date

## Attachment "E"

### Utility Joint Use Acknowledgment – (ROW-U-JUAA) and/or Utility Installation Request – (Form 1082)

- Utility Joint Use Acknowledgment (ROW-U-JUAA)
  
- Utility Installation Review/Permit Number: TBD

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

## Attachment "F" Eligibility Ratio

Eligibility Ratio established: 43.88 %

- Non-interstate Highway (Calculation attached)
- Interstate Highway

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

COMPOSITE ELIGIBILITY RATIO CALCULATION

| FACILITY TO BE ADJUSTED                     | COST OF ADJUSTMENT | INDIVIDUAL ELIGIBILITY RATIO | W, X, Y & Z FACTORS |
|---|--------------------|------------------------------|---------------------|
| 12" Wastewater Main(Eastside) - Line A      | \$ 93,069.11       | 16.91%                       | \$ 15,737.99        |
| 8" Wastewater Forcemain (Westside) - Line B | \$ 69,638.80       | 0%                           | -                   |
| 12" Waterline (Westside) - Line C           | \$ 257,383.67      | 87.52%                       | \$ 225,262.19       |
| 6" Wastewater Forcemain (Westside) - Line D | \$ 192,742.15      | 14.47%                       | \$ 27,889.79        |

W+X+Y+Z

\$ 268,889.96

Line A + Line B + Line C + Line D

\$ 612,833.73

COMPOSITE ELIGIBILITY RATIO

**43.88%**

## Attachment "G" Betterment Calculation and Estimate

- Elective Betterment Ratio established: N/A %  
(Calculation attached)
- Forced Betterment  
(Provide supporting documentation)
- Not Applicable

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

## Attachment "H" Proof of Property Interest

Supporting documentation of compensable property interest that establishes reimbursement eligibility as referenced in Texas Transportation Code §203.092.

Property interest documented through applicable affidavits and required attachments.

ROW-U-1A and

ROW-U-1B

**Or**

ROW-U-1C

The roadway improvement project is designated as an Interstate Highway project; therefore, no supporting documentation of compensable interest is required.

\_\_\_\_\_  
Initial      Date  
TxDOT

\_\_\_\_\_  
Initial      Date  
Utility

(1)

VOL 443 PAGE 18

CITY OF KINGSVILLE

Project 83-30

EASEMENT AGREEMENT

THE STATE OF TEXAS        I  
                                  I                    KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF KLEBERG        I

THAT W. E. Cumberland and wife, Irene Mary Cumberland  
of the County of Kleberg, State of Texas (hereinafter referred to  
as the "Grantor"), for and in consideration of the sum of \_\_\_\_\_  
Five thousand, five hundred eighty-eight and 80/100 \_\_\_\_\_ Dollars  
(\$ 5,588.80 ) to (me) (us) (~~us~~) in hand paid by THE CITY OF  
KINGSVILLE (hereinafter referred to as the "Grantee"), a home rule,  
municipal corporation and body politic existing by virtue of the laws  
of the State of Texas, whose address is P. O. Box 1458, Kingsville,  
Kleberg County, Texas, the receipt and sufficiency of which is hereby  
acknowledged, has granted and conveyed and by these presents does  
grant and convey unto the Grantee, its successors, assigns and legal  
representatives the unlimited, free and uninterrupted use, liberty,  
privilege, right-of-way and easement for the purpose of laying, con-  
structing, inspecting, maintaining, altering, operating, replacing  
and removing a pipeline or line with necessary fittings, appliances  
and other appurtenances incidental thereto, for the transportation  
of raw and treated water and sewage, for municipal, domestic, agri-  
cultural, industrial or any other useful purposes, which right-of-way  
and easement shall be of a width of Twenty feet  
(20' ) in, on, upon, over, along, across, under and through a  
certain tract of land situated in Kleberg County, Texas, and being  
described as follows:

All of that certain parcel or tract of land being  
more particularly described in Exhibit "A" attached  
hereto and made a part hereof for all purposes;

Together with a temporary construction easement  
located alongside of and adjacent to the above  
described right-of-way and easement to be used  
for working room, stockpiling and storage of  
materials and equipment, constructing, assembling  
and stringing of pipe, and operating construction  
machinery equipment in constructing a pipeline for

the transportation of water. Said temporary construction easement shall be terminated upon the final completion of all construction of said water pipeline, and upon said completion, the Grantee agrees to provide a letter of release of the temporary construction easement, if requested by the Grantor.

A description of the temporary construction easement is shown on Exhibit "B" and made a part hereof for all purposes.

There is included in this grant and conveyance the right of the Grantee, from time to time, to lay, construct, inspect, maintain, alter, operate, replace and remove additional pipelines or lines for the purposes herein set forth, provided, however, such additional pipelines or lines shall be subject to the same rights, privileges and conditions as herein provided.

The Grantee shall have all other rights and benefits necessary or convenient for the full enjoyment or use of the rights herein granted, including but without limiting the same to, the free and full right of ingress or egress on, over, across, to and from said right-of-way and easement, the right from time to time to remove all obstructions that may injure, endanger or interfere with the maintaining, servicing, repairing, constructing, removing and inspecting any pipeline or line and the granting of use of said right-of-way, as may be required, to franchisees of Grantee.

The Grantee accepts this grant and conveyance with the understanding that the Grantor, (his) (her) (their) (its) heirs, legal representatives, successors and assigns, after completion of the construction as above mentioned, shall not be restricted with respect to the use of the surface of the above described property, provided, however, that no building, permanent structure (which term shall not include railroad tracks, road surfacing, culverts, gutters, parking lots and sidewalks), land fill or dumpsite may be created thereon by the Grantor, (his) (her) (their) (its) heirs, legal representatives, successors and assigns.

All ditching shall be double ditched and all surfaces returned to present condition.

To have and to hold said right-of-way and easement, unto the said Grantee, its successors, assigns and legal representatives, so long as the rights, privileges and easements herein granted and conveyed, or any of them shall be used by, or be useful to the Grantee, its successors, assigns and legal representatives for the purposes herein granted; and the Grantor hereby bind(s) (himself) (herself) (themselves) (itself), (his) (her) (their) (its) heirs, legal representatives, successors and assigns to warrant and forever defend all and singular said right-of-way and easement unto the said Grantee, its successors, assigns and legal representatives against every person whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, this Easement Agreement is executed on this 25th day of October, 1983, by W. E. Cumberland and Irene Mary Cumberland

W. E. Cumberland

Irene Mary Cumberland  
Irene Mary Cumberland

Accepted by the City of Kingsville, a home-rule, municipal corporation and body politic existing by and under the laws of the State of Texas, this 31st day of October, 1983, pursuant to motion duly made, seconded and adopted by the City Commission of the City of Kingsville.

THE CITY OF KINGSVILLE

By: Henry Blair  
Mayor

ATTEST:

[Signature]  
City Secretary



# Easement 2

VOL 459 PAGE 98

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 20' Utility Easement  
(0.4946 Acres)

PARCEL PA-2-P

FIELD NOTES for a 20' Utility Easement here designated Parcel PA-2-P and being out of Farm Lot 1, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas, also being out of a 50.95 acre tract known as Tract 9 and allotted to Kenneth A. Huff in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas and said 20' Utility Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the West R.O.W. line of U. S. Highway 77 Bypass at the intersection of the South R.O.W. of a 60' Unopened County Road for the N.E. corner of Farm Lot 1, Block 33 and for the N.E. corner of this 20' Utility Easement;

THENCE, S-00°-41'-33"-E, along the West line of U. S. Highway 77 Bypass, a distance of 45.73' to a point of curvature of this 20' Utility Easement;

THENCE, along the West line of U. S. Highway 77 Bypass along a curve to the right having a Delta Angle of 16°-06'-40", Radius of 3668.09', Tangent of 519.15', for an arc distance of 1031.44' to a point for the S.W. corner of said 50.95 acre tract and for the S.E. corner of this 20' Utility Easement;

THENCE, S-89°-19'-00"-W, along the South line of said 50.95' acre tract, a distance of 20.82' to a point for the S.W. corner of this 20' Utility Easement;

THENCE, in a Northeasterly direction parallel to and 20' West of the West line of U. S. Highway 77 Bypass along a curve to the left having a Delta Angle of 16°-12'-07", Radius of 3648.09', Tangent of 519.26', for an arc distance of 1031.59' to a point of Tangency of this 20' Utility Easement;

THENCE, N-00°-41'-33"-W, parallel to and 20' West of the West line of U. S. Highway 77 Bypass, a distance of 45.73' to a point in the South R.O.W. line of said 60' Unopened County Road and the North line of Farm Lot 1, Block 33 for the N.W. corner of this 20' Utility Easement;

THENCE, N-89°-19'-00"-E, along the South line of said 60' Unopened County Road and the North line of Farm Lot 1, Block 33, a distance of 20.00' to the PLACE OF BEGINNING and containing 0.4946 acre of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984

Signed: *Patrick W. Coym*

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.



EXHIBIT "A"

# Easement 2

VOL 459 PAGE 99

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 60' Construction Easement  
(1.4842 Acres)

PARCEL PA-2-C

FIELD NOTES for a 60' Construction Easement here designated Parcel PA-2-C and being out of Farm Lot 1, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.95 acre tract known as Tract 9 and allotted to Kenneth A. Huff in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 at seq of the Deed Records of Kleberg County, Texas and said 60' Construction Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the South line of a 60' Unopened County Road, the North line of Farm Lot 1, Block 33 for the N.W. corner of a 20' Utility Easement designated as Parcel PA-2-P for the N.E. corner of this 60' Construction Easement and from whence the N.E. corner of Farm Lot 1, Block 33 in the West R.O.W. line of U. S. Highway 77 Bypass bears N-89°-19'-00"-E, 20.00';

THENCE, S-00°-41'-33"-E, along the West line of said 20' Utility Easement, a distance of 45.73' to a point of curvature of this 60' Construction Easement;

THENCE, along the West line of said 20' Utility Easement along a curve to the right having a Delta Angle of 16°-12'-07", Radius of 3648.09', Tangent of 519.26', for an arc distance of 1031.59' to a point for the S.W. corner of said 20' Utility Easement and the S.E. corner of this 60' Construction Easement;

THENCE, S-89°-19'-00"-W, a distance of 62.52' to a point for the S.W. corner of this 60' Construction Easement;

THENCE, parallel to and 60' West of the West line of said 20' Utility Easement along a curve to the left having a Delta Angle of 16°-28'-49", Radius of 3588.09', Tangent of 519.62', for an arc distance of 1032.06' to a point of Tangency of this 60' Construction Easement;

THENCE, N-00°-41'-33"-W, parallel to and 60' West of the West line of said 20' Utility Easement, a distance of 45.73' to a point in the South R.O.W. line of a 60' Unopened County Road and the North line of Farm Lot 1, Block 33 for the N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, along the South line of a 60' Unopened County Road, a distance of 60.00' to the PLACE OF BEGINNING and containing 1.4842 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date:

July 23 1984

Signed:

*Pat W. Coym*

Registered Public Surveyor  
COYM & REHMET ENGINEERING CO., INC.



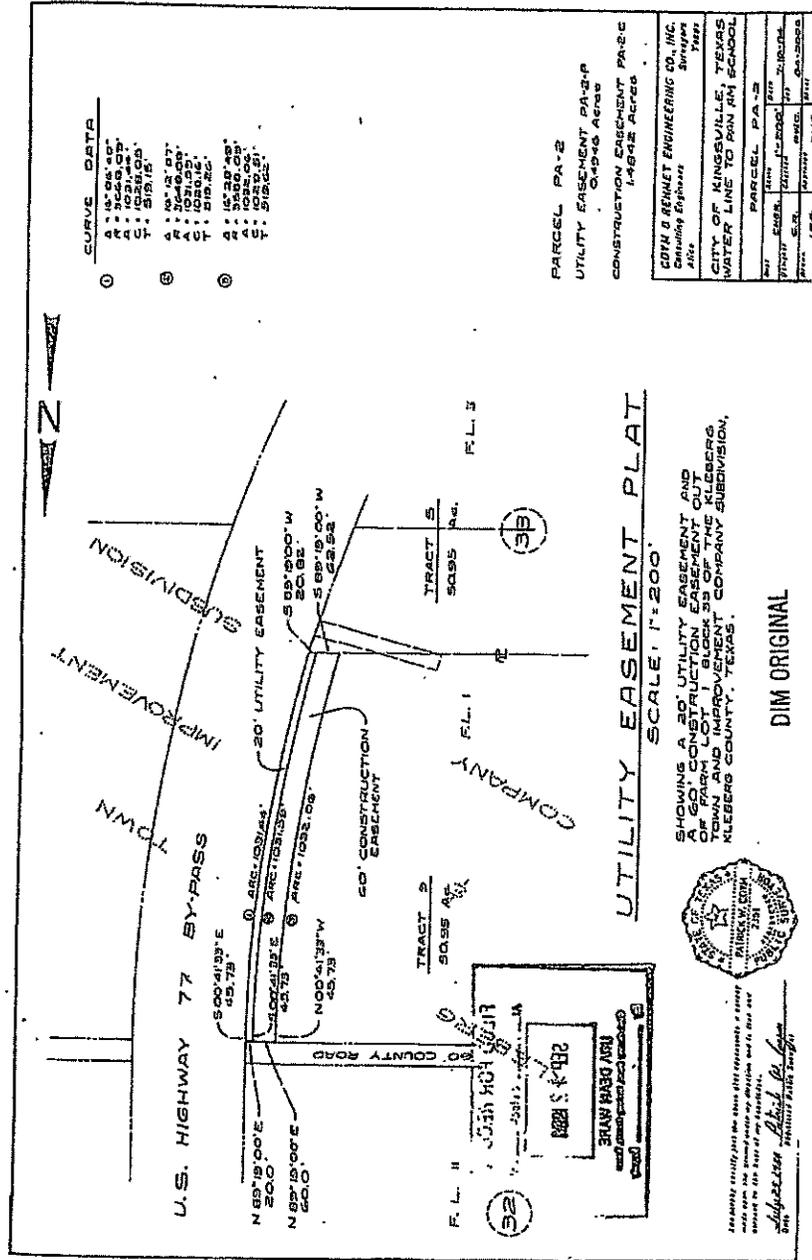
EXHIBIT "B"

EXHIBIT "C"

The consideration for the above easement shall be as follows:

The CITY OF KINGSVILLE hereby agrees to place an 8" tap at the Northeast corner of said tract and to allow the said KENNETH HUFF the privilege of tapping on and purchasing water to serve lands owned by him, his brother, LEONARD HUFF, and his sister, DOROTHY HAFSEY, at the normal and customary rates for residents of the CITY OF KINGSVILLE.

This privilege shall extend to the said KENNETH HUFF, his heirs and assigns forever.



STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 20' Utility Easement  
(1.1347 Acres)

PARCEL PA-3-P

FIELD NOTES for a 20' Utility Easement here designated Parcel PA-3-P and being out of Farm Lots 1 and 3, Block 33, of the KLEBERG TOWN AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.95 acre tract known as Tract 5 allotted to Leonard L. Huff Jr. in a Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg. 164 et seq of the Deed Records of Kleberg County, Texas said 20' Utility Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the West R.O.W. line of a U. S. Highway 77 Bypass for the N.E. corner of said 50.95 acre tract known as Tract 5, S.E. corner of a 20' Utility Easement known as Parcel PA-2-P and for the N.E. corner of this 20' Utility Easement;

THENCE, along the West R.O.W. line of U.S. Highway 77 Bypass along a curve to the right having a Delta Angle of  $6^{\circ}-34'-53''$ , Radius of 3668.09', Tangent of 210.91', for an arc distance of 421.35' to a point of Tangency of this 20' Utility Easement;

THENCE, S-22 $^{\circ}$ -00'-00"-W, along the West R.O.W. line of U. S. Highway 77 Bypass, a distance of 1406.55' to a point of intersection of the West R.O.W. line of U. S. Highway 77 Bypass in the North R.O.W. line of a 60' County Road for the S.E. corner of this 20' Utility Easement;

THENCE, S-89 $^{\circ}$ -19'-00"-W, along the North R.O.W. line of said 60' County Road and the South line of Farm Lot 3, Block 33, a distance of 648.20' to a point in the West R.O.W. line of State Loop 428 for the S.W. corner of this 20' Utility Easement;

THENCE, N-52 $^{\circ}$ -07'-22"-W, along the East R.O.W. line of State Loop 428, a distance of 32.09' to a point for the most Southerly N.W. corner of this 20' Utility Easement;

THENCE, N-89 $^{\circ}$ -19'-00"-E, parallel to and 20' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 33, a distance of 659.97' for an inner corner of this 20' Utility Easement;

THENCE, N-22 $^{\circ}$ -00'-00"-E, parallel to and 20' West of the West line of U. S. Highway 77 Bypass, a distance of 1393.24' to a point of curvature of this 20' Utility Easement;

THENCE, along a curve to the left having a Delta Angle of  $6^{\circ}-29'-27''$ , Radius of 3648.09', Tangent of 206.86', for an arc distance of 413.27' to a point for the S.W. corner of said 20' Utility Easement known as Parcel PA-2-P and the N.W. corner of this 20' Utility Easement;

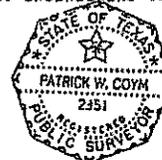
THENCE, N-89 $^{\circ}$ -19'-00"-E, along the North line of said 50.95 acre tract, a distance of 20.82' to the PLACE OF BEGINNING and containing 1.1347 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to the best of my knowledge.

Date: July 23, 1984 Signed: Patrick W. Coyh

Registered Public Surveyor  
COYH & REHNET ENGINEERING CO., INC.

EXHIBIT "A"



# Easement 3

VOL. 459 PAGE 107

STATE OF TEXAS  
COUNTY OF KLEBERG

FOR: City of Kingsville  
A 60' Construction Easement  
(3.3775 Acres)

PARCEL PA-3-C

FIELD NOTES for a 60' Construction Easement here designated Parcel PA 3-C and being out of Farm Lots 1 and 3, Block 33, of the KLEBERG TOW AND IMPROVEMENT CO. SUBDIVISION as recorded in Vol. 1, Pg. 34 of the Map Records of Kleberg County, Texas and also being out of a 50.9 acre tract known as Tract 5 allotted to Leonard L. Huff Jr. in Partition Deed dated February 28, 1973 and recorded in Vol. 272, Pg 164 et seq of the Deed Records of Kleberg County, Texas and said 60' Construction Easement being more particularly described by metes and bounds as follows:

BEGINNING at a point in the North line of said 50.95 acre tract for the N.W. corner of a 20' Utility Easement known as Parcel PA-3-P at the N.E. corner of this 60' Construction Easement and from whence the N.E. corner of said 50.95 acre tract in the West R.O.W. line of U. S. Highway 77 Bypass bears N-89°-19'-00"-E, 20.82';

THENCE, along the West line of said 20' Utility Easement and along curve to the right having a Delta Angle of 6°-29'-27", Radius of 3648.09', Tangent of 206.86', for an arc distance of 413.27' to point of Tangency of this 60' Construction Easement;

THENCE, S-22°-00'-00"-W, parallel to and 20' West of the West R.O.W. line of U. S. Highway 77 Bypass and along the West line of said 2' Utility Easement, a distance of 1393.24' to a point for the S. corner of this 60' Construction Easement;

THENCE, S-89°-19'-00"-W, parallel to and 20' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 3 a distance of 659.97' to a point in the East R.O.W. line of State Loop 428 for the S.W. corner of this 60' Construction Easement;

THENCE, N-52°-07'-22"-W, along the East R.O.W. line of State Loop 42 a distance of 96.26' to a point for the most Southerly N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, parallel to and 80' North of the North R.O.W. line of a 60' County Road and the South line of Farm Lot 3, Block 3 a distance of 695.28' to a point for an inner corner of this 60' Construction Easement;

THENCE, N-22°-00'-00"-E, parallel to and 80' West of the West line of U. S. Highway 77 Bypass, a distance of 1353.28' to a point of curvature of this 60' Construction Easement;

THENCE, parallel to and 80' West of the West R.O.W. line of U. S. Highway 77 Bypass along a curve to the left having a Delta Angle of 6°-12'-44", Radius of 3588.09', Tangent of 194.71', for an arc distance of 389.04' to a point for the N.W. corner of this 60' Construction Easement;

THENCE, N-89°-19'-00"-E, along the North line of said 50.95 acre tract a distance of 62.52' to the PLACE OF BEGINNING and containing 3.3775 acres of land.

I do hereby certify that these field notes represent a survey made upon the ground under my direction and are true and correct to best of my knowledge.

Date: July 23, 1984 Signed: Patrick W. Coym

Registered Public Surveyor  
COYM & REHMET ENGINEERS, P.C.



EXHIBIT 'B'

# Easement 3

VNL 459 PAGE 108

## EXHIBIT "C"

The consideration for the above easement shall be as follows:

The CITY OF KINGSVILLE hereby agrees to place an 8" tap at the Southeast corner of said tract and to allow the said LEONARD HUFF the privilege of tapping on and purchasing water to serve lands owned by him, his brother, KENNETH HUFF, and his sister, DOROTHY HAPPEY, at the normal and customary rates for the residents of the CITY OF KINGSVILLE.

This privilege shall extend to the said LEONARD HUFF, his heirs and assigns forever.

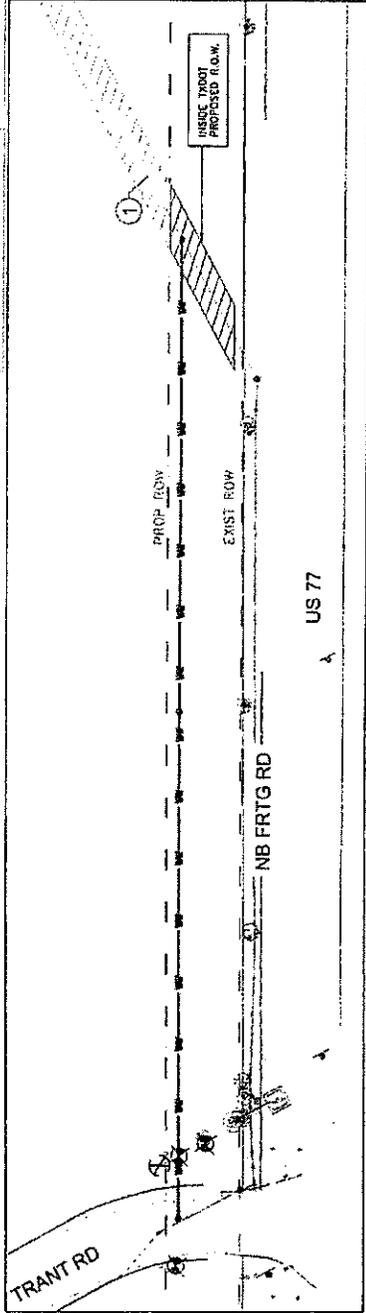
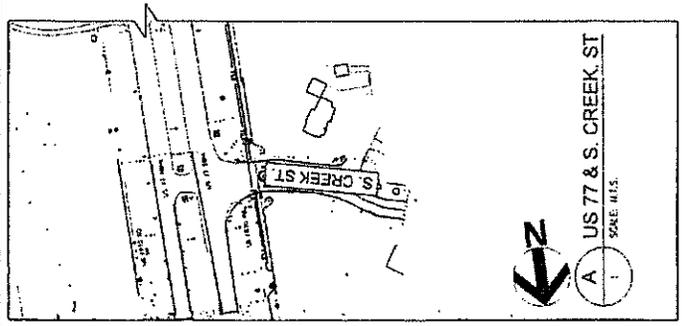
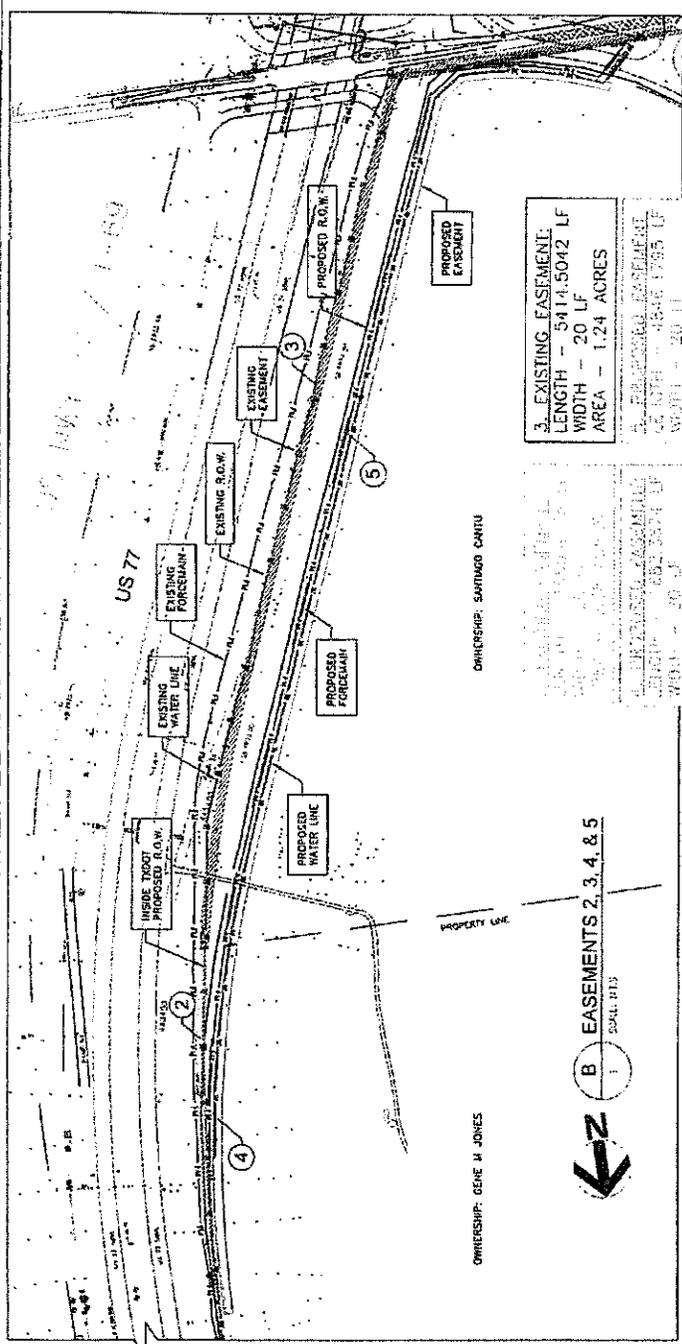


CITY OF KANSAS CITY  
ENGINEERING DEPARTMENT  
ATTENTION:  
ENGINEER: ERIC KASSEL  
PROJECT NO. 2013-0005

Drawn by: L. RAMIREZ  
Date: 12/19/18  
Checked by: R. MORAN  
Job:

**UTILITY EASEMENT MAP**  
**US 77 OVERPASS UTILITIES RELOCATION**  
EASEMENTS

SHEET



1. EXISTING EASEMENT:  
LENGTH - 497.8746 LF  
WIDTH - 20 LF  
AREA - 0.11 ACRES

B EASEMENT 1: TRANT RD. TO US 77  
SCALE: 1/8" = 1'-0"